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IMPLEMENTATION OF THE DECLARATION ON THE ELIMINATION OF ALL FORMS OF INTOLERANCE AND OF DISCRIMINATION BASED ON RELIGION OR BELIEF

Report submitted by Mr. Abdelfattah Amor, Special Rapporteur, in accordance with Commission on Human Rights resolution 1993/25

CONTENTS

		Paragraphs	Page
INTRODUCTION		1 - 5	3
I.	MANDATE AND WORKING METHODS OF THE SPECIAL RAPPORTEUR	6 - 18	3
II.	SPECIFIC INCIDENTS IN VARIOUS COUNTRIES EXAMINED BY THE SPECIAL RAPPORTEUR	19 - 93	6
	Albania	25 - 26	7
	Algeria	27 - 28	10
	Germany	29 - 30	14
	Saudi Arabia	31 - 33	21
	Australia	34 - 35	24
	Bangladesh	36	25
	Bulgaria	37 - 39	27
	Cameroon	40	38
	China	41 - 42	38
	Cuba	43	44
	Egypt	44 - 45	45
	Spain	46 - 47	52
	Ethiopia	48 - 50	61
	France	51 - 52	63
	Greece	53 - 54	66
	India	55 - 57	70
	Iran, Islamic Republic of	58 - 59	78
	Iraq	60 - 61	78
	Malaysia	62 - 63	96
	Myanmar	64	98
	Nepal	65 - 66	100
	Pakistan	67 - 68	101
	Republic of Moldova	69 - 70	101
	Romania	71 - 74	103
	Sudan	75 - 77	110
	Syrian Arab Republic	78	112
	Viet Nam	79 - 83	113
	Former Yugoslavia	84 - 93	131
III.	CONCLUSIONS AND RECOMMENDATIONS	94 - 114	136

INTRODUCTION

1. At its forty-second session, the Commission on Human Rights decided, in resolution 1986/20 of 10 March 1986, to appoint for one year a special rapporteur to examine incidents and governmental actions in all parts of the world which were inconsistent with the provisions of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, and to recommend remedial measures for such situations.

2. Following the Special Rapporteur's first report to the Commission at its forty-third session (E/CN.4/1987/35), his mandate was extended for one year. From 1988 onwards, the Special Rapporteur has submitted yearly reports to successive sessions of the Commission (E/CN.4/1988/45 and Add.1 and Corr.1; E/CN.4/1989/44; E/CN.4/1990/46; E/CN.4/1991/56; E/CN.4/1992/52; E/CN.4/1993/62 and Add.1 and Corr.1). In its resolutions 1988/55, 1990/27 and 1992/17, the Commission twice decided to extend the Special Rapporteur's mandate for two years, and then for a further three years, until 1995.

3. Meanwhile, Mr. Angelo Vidal d'Almeida Ribeiro, the holder of the mandate on religious intolerance since its inception, resigned on 18 February 1983 for health reasons. The Chairman of the Commission then appointed Mr. Abdelfattah Amor to replace him.

4. In chapter I, the Special Rapporteur recalls the terms of his mandate and their interpretation and describes the working methods he used in preparing this eighth report. Chapter II concerns the activities of the Special Rapporteur during the present reporting period. It contains allegations duly transmitted to the Governments concerned regarding situations which were said to depart from the provisions of the Declaration, as well as the observations formulated in that regard by Governments wishing to reply. Lastly, in chapter III, the Special Rapporteur submits conclusions and recommendations, based on his analysis of the information available regarding the numerous infringements of the rights set out in the Declaration during the period covered by this report and on the study of measures which could contribute to preventing intolerance and discrimination based on religion or belief.

5. In order to be able to submit his report in time for the fiftieth session of the Commission on Human Rights, the Special Rapporteur has not been able to include in the report communications received after 31 December 1993. They will, however, be covered in the report which he will submit to the Commission at its fifty-first session, in 1995.

I. MANDATE AND WORKING METHODS OF THE SPECIAL RAPPORTEUR

6. In his previous reports, the Special Rapporteur included considerations on the subject of his interpretation of the mandate entrusted to him by the Commission (E/CN.4/1988/45, paras. 1-8; E/CN.4/1989/44, paras. 14-18). He particularly stressed its dynamic nature. He therefore considered it necessary in the initial phase to set out the elements of the problem before him and in doing so to identify factors constituting an impediment to the implementation of the provisions of the Declaration and to make an inventory of incidents and measures inconsistent with those provisions.

7. In a second phase, the Special Rapporteur endeavoured to identify more precisely particular situations appearing inconsistent with the provisions of the Declaration. Accordingly, he approached a number of Governments and requested clarification of allegations concerning their country. He noted with satisfaction that most of the Governments in question had replied. He therefore deemed this productive dialogue to be very necessary and to demonstrate a genuine interest on the part of those Governments in the many questions raised in the allegations submitted to them.

8. The present Special Rapporteur will make an evaluation in due course. In the meantime, he has followed the working method of his predecessor, transmitting to Governments summaries of allegations sent to him and appearing, prima facie, to represent infringements of or impediments to the exercise of the right to freedom of thought, conscience and religion. The Special Rapporteur is nevertheless aware that, in some cases where this working method is applied, the suggested time-limit for replies does not allow Governments long enough to conduct the necessary investigations. Consequently, he would like next year to introduce a system of consultation with Governments, in conjunction with non-governmental organizations, in order to take this legitimate concern into account.

9. The Special Rapporteur noted that some of the allegations transmitted to the Governments concerned mentioned various forms of harassment, arbitrary arrest and detention, torture or ill-treatment suffered by the victims of religious intolerance, as well as attempts on their lives. In addition, some of the reports received referred to the desecration, or even the destruction, of religious sanctuaries or property and cemeteries.

10. This state of affairs prompted the Special Rapporteur to ask some Governments specific and concrete questions, particularly when the allegations made against them contained descriptions of specific cases of individuals persecuted on the basis of their religion or beliefs, or of places of worship which had been damaged. These questions were in many cases accompanied by requests for legislative and other relevant texts.

11. The Special Rapporteur is particularly grateful for the efforts of those Governments which attempted to shed light on the allegations submitted to them, in accordance with the wish expressed by the Commission on Human Rights in its resolution 1993/47 to the effect that Governments should respond "expeditiously to requests for information made to them through the procedures, so that the thematic special rapporteurs concerned ... may carry out their mandates effectively". The replies provided by Governments are invaluable in enabling the Special Rapporteur to reach an informed opinion on the situation in a given country with regard to religious freedom.

12. As for the follow-up to allegations communicated to Governments and the replies received from them, the Special Rapporteur proposes to inform the Commission much more regularly and in greater detail of his views and observations on specific situations and to revert to those situations as long as the problems and manifestations of religious intolerance so require, or as long as Government replies - or the lack of them - fail to provide the

necessary clarification. The Special Rapporteur will also apply himself to studying the question of Governments which do not furnish replies to the allegations transmitted to them.

13. In the Special Rapporteur's view, a special effort should be made to help Governments requesting it to better understand their obligation to implement article 18 of the International Covenant on Civil and Political Rights and the 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. He would also like to determine with them the preventive measures which could be taken to prevent the emergence or aggravation of certain situations of religious intolerance, particularly where they may lead to serious unrest, to riots accompanied by destruction or otherwise, or to armed conflict.

14. The Special Rapporteur also wishes to emphasize the importance which he attaches to visits to be made in situ in order to further the dialogue already initiated with many Governments and also to better appreciate the full complexity of the situations of religious intolerance which he is, and will be, called upon to encounter during his mandate. In a letter of 31 August 1993 addressed to the Permanent Representatives of Greece, India, Iran (Islamic Republic of) and Pakistan, the Special Rapporteur announced his wish to visit their countries to obtain information from their authorities and other parties concerned on various matters falling within his mandate. In a letter of 31 August 1993, the Special Rapporteur also wrote to the Government of the Sudan to confirm that he was pleased to accept the invitation extended to his predecessor to visit the Sudan. The choice of the above-mentioned countries was determined by the Special Rapporteur's concern to study in detail a number of problems of religious intolerance which had been brought to his attention, while maintaining an appropriate geographical balance.

15. Finally, the Special Rapporteur wishes to maintain and strengthen the cooperation already established with other special rapporteurs or independent experts responsible for special procedures with a bearing on his mandate by, among other things, examining specific problems with them in greater detail. Another possible method of collaboration, in the context of specific situations, would be to organize joint in situ visits by several special rapporteurs and/or independent experts. The Special Rapporteur is of the view that an annual meeting of special rapporteurs and other independent experts would lead to greater rationalization of special procedures.

16. During the period under review, the Special Rapporteur has endeavoured, as the terms of Commission resolution 1993/25 require, to make full use of credible and reliable information provided to him, while exercising the necessary impartiality, independence and discretion. In order to do so, he has drawn on a very broad range of governmental and non-governmental sources, of very varied geographical origins, and comprising both organizations and individuals. He has also spoken with the representatives of some governments and a number of non-Governmental organizations. He has endeavoured to take due account of information from religious groups and denominational communities. He has given priority to the use of recent information covering the period since the Commission's previous session. However, in the case of situations mentioned for the first time or of problems, the origins or the

manifestations of which go back a number of years, he has sometimes made use of earlier information and referred to it. The information gathered will also be used specifically to document religions intolerance.

17. It should be made clear that the dialogue established with Governments by the Special Rapporteur and the transmittal of allegations concerning their countries in no way implies any kind of accusation or value judgement on the part of the Special Rapporteur, but rather a request for clarification with a view to finding, along with the Government concerned, a solution to a problem which goes to the very heart of fundamental rights and freedoms.

18. The Special Rapporteur notes that the resources made available for the performance of his task are very limited and, in certain respects, derisory. He is of the view that research and the processing of data, as well as the formulation of conclusions and recommendations and follow-up, call for a significant strengthening of available resources. He regrets, therefore, not having been able to process all the information received on questions of religious intolerance in certain States and not having been able to transmit to Governments allegations concerning them within a reasonable timespan. With additional resources, he hopes to give greater impetus to his mandate, so as to be able to consider effectively as many situations as possible on the basis of a more rational and exacting method and arrive at still more pertinent conclusions.

II. SPECIFIC INCIDENTS IN VARIOUS COUNTRIES EXAMINED BY THE SPECIAL RAPPORTEUR

19. The Special Rapporteur addressed specific requests for information to 27 Governments, in accordance with paragraph 12 of Commission on Human Rights resolution 1993/25, which "encourages the Special Rapporteur to continue to examine incidents and governmental actions in all parts of the world that are incompatible with the provisions of the Declaration and to recommend remedial measures as appropriate".

20. In these communications to the above-mentioned Governments, the Special Rapporteur requested, among other things, their views and comments in order to ascertain whether they had taken or were contemplating, in accordance with paragraph 5 of the above-mentioned resolution, "all appropriate measures to combat hatred, intolerance and acts of violence, including those motivated by religious extremism, and to encourage understanding, tolerance and respect in matters relating to freedom of religion or belief", with due regard for internationally recognized standards of religious freedom.

21. The communications transmitted to the 27 Governments in question included allegations addressed to the Governments of the Islamic Republic of Iran and Pakistan. However, these allegations are not referred to in this report, since the Special Rapporteur felt that the two Governments concerned had not been allowed the minimum period of two months which he regards as essential to carry out the necessary investigations and respond to the allegations transmitted. Should those two replies reach the Centre for Human Rights during the month of January, however, they will be published, with the relevant allegations, as addenda to this report.

22. China also received both general and detailed allegations in 1993, for which the reply period proved to be less than two months. The Chinese Government provided an initial response relating solely to the general part of the allegations addressed to it. It has not yet replied to the detailed allegations concerning a number of individual cases calling for lengthier investigations. As a result, only the general part of the allegations transmitted to the Chinese authorities and the relevant reply are reproduced in this report.

23. As of 31 December 1993, the Governments of the following countries had replied to the allegations transmitted to them by the Special Rapporteur during the past year: Albania, Algeria, Australia, Bulgaria, China (general part of the allegations), Egypt, France, Germany, India, Iraq, Nepal, Republic of Moldova, Romania, Saudi Arabia, Spain, Sudan, Viet Nam. Viet Nam also replied to a communication sent to it in 1992.

24. In addition, following specific communications transmitted to Governments during 1992, the Special Rapporteur received replies from the Governments of the following countries at the end of 1992 after the finalization of his report to the Commission on Human Rights: Ethiopia, Greece, Malaysia, Romania. Those replies, together with the relevant allegations, are included in this report.

Albania

25. In a communication dated 31 August 1993, addressed to the Government of Albania, the Special Rapporteur transmitted the following information:

> "According to information received on 25 June 1993, the archimandrite Chrisostomos Maidonis, a Greek Orthodox priest who had been involved for the past year in the reorganization of the Autocephalous Orthodox Church of Albania (parish of Gjirokâster, in the south of the country), was removed forcibly from his home by police officers, who then beat their way with truncheons through the bystanders gathered on the pavement, and was taken to the frontier post at Kakavia, before being deported. This operation is said to have been carried out without the authorization of the district magistrate.
>
> This incident occurs at a time when the Autocephalous Orthodox Church of Albania is engaged in re-establishing itself after a long period of eclipse. With this end in view, it is reported to have called in four foreign Orthodox priests (one American and three Greeks, including the priest who was reportedly deported). According to our information, the Orthodox Church is being subjected to discrimination, since the Roman Catholic Church, which has only half as many members as the Orthodox community, has been authorized to appoint some 30 foreign priests and more than 100 Catholic nuns.
>
> At a meeting with President Sali Berisha on 9 July 1993, Archbishop Anastasios Yanoulatos is said to have voiced his concerns over the difficulties encountered by the Autocephalous Orthodox Church of Albania in recovering its property. Whereas the Catholic Church reportedly now has a seminary and a new cathedral and the Muslim

community has begun construction of a mosque, the Albanian authorities appear to have made no attempt to restore certain places of worship or study, such as the Church of Tirana and the Monastery of Ardenitsa, to the Orthodox Church, which most urgently needs them."

26. In October 1993, the Government of Albania sent its observations on the above-mentioned communication transmitted to it by the Special Rapporteur:

> "As a new democracy that has emerged from a ruthless dictatorial regime, Albania is currently engaged in the affirmation of the democratic values of the civilized world. Actually, an all-round process of transformation is taking place in our country for the establishment and consolidation of the rule of law, parliamentary democracy and the implementation of a comprehensive system for the protection of human rights. In this context, special attention is paid to the problems of minorities.
>
> For objectivity's sake, it should be acknowledged that, even before the democratic change, although Albania was among the countries which were notorious for their massive and drastic violations of human rights, there existed no particular discrimination in the treatment of its minorities. The rights of these persons were violated to the same extent as those of the Albanians themselves.
>
> In the case of the Greek minority, they enjoyed the right to use their mother tongue both in the family and in public life; they had a considerable number of schools of different cycles for education in their mother tongue, with teachers of the Greek language being trained at a pedagogical middle school and the Chair of the Greek Language of the University of Gjirokastra; their cultural identity was protected through such institutions as museums, cultural centres, etc.; they had their newspaper Laiko Vima, their publications and their radio programmes (Radio Gjirokastra and Radio Tirana); they were represented to the People's Assembly and the government organs. In general, it can be safely said that the level of the real enjoyment of their socio-economic rights was higher than in many other regions of Albania. And this situation was not an achievement of the former regime, but, first of all, an expression of the friendly relations which had always existed between the Albanian and Greek communities living in the same conditions.
>
> The new democratic regime was right from the beginning, concerned about the elaboration and implementation for the minorities of a policy which would live up to the standards established in the international documents of the United Nations, CSCE and the Council of Europe, as well as take into account the positive experience of the States of a consolidated democracy in Europe. Into this context fits the preamble of the Fundamental Constitutional Law (art. 4), which reads as follows: 'The Republic of Albania recognizes and guarantees the basic human rights and freedoms of national minorities as accepted in the international documents'. The Law on Fundamental Freedoms and Human Rights adopted on 31 March provides: 'Individuals belonging to national minorities shall enjoy, without any discrimination and in full equality before the law, all the fundamental human rights and freedoms: they shall freely express, preserve and develop their ethnic, cultural, and religious

identity, teach and be taught in their mother tongue, and associate in organizations and societies to protect their interests and identity. Nationality shall be determined on the basis of accepted international norms.'

After his visit to Albania this summer at the invitation of President Berisha, in a letter addressed on 10 September to Mr. Alfred Serreqi, the Albanian Minister for Foreign Affairs, Max van der Stoel, CSCE High Commissioner on National Minorities, presents some conclusions on the condition of the Greek minority in Albania, from which we may be allowed to quote:

'... continuous progress in the transition from a dictatorship towards a democratic system, which is now going on in Albania, provides the best guarantees for the legitimate interests of the Greek minority in your country. Paragraph 30 of the Copenhagen Document clearly defines the linkage between a democratic system and adequate minority protection when it says that the questions relating to the national minorities can only be satisfactorily resolved in a democratic political framework based on the rule of law ...'.

'... it will take many years to overcome the consequences of the disastrous economic policies of the Communist regime which has brought your country to the verge of the abyss. Inevitably this will restrict the possibilities to satisfy a number of demands, especially in the educational and cultural fields, which more prosperous countries would have no difficulty to finance. The minority will have to accept the restrictions which the grave economic and financial situation imposes ...'.

'... I should like to quote a passage from a document which the Democratic Union of the Greek Ethnic Minority People in Albania (OMONIA) published as recently as 7 May of this year. After having formulated a number of demands, OMONIA states: "It is to the credit of our peoples that, at a time when fierce ethnic conflicts have burst out in Europe and in the Balkans in particular, fraught with far-reaching consequences for their peoples and dangerous for the fates of peace in the Balkans and Europe, they have displayed their culture and maturity and have known to deal with the problems facing them in the democratic and good understanding spirit and by way of dialogue and tolerance".'

'... I have of course been aware that, since the Communist regime collapsed in Albania, the Greek minority has regained a measure of freedom unknown for decades. Also I realize that for the Government [of Albania] the problem of the minority is only one of the many pressing questions which it has to face. However, I am also firmly convinced that rapid and mutually satisfactory solutions of a number of acute minority questions could greatly enhance the chances of Albania to overcome the many other difficult problems it has to face ...'.

Also, during his visit on 21 July this year, speaking about the policy of the Albanian Government towards the people of the Greek minority in Albania, the President of the European Parliament, Mr. Egon Klepsch, said, 'There is no doubt that it is excellent'.

Coming to the particular case mentioned in the communication enclosed in your letter, we would like to add that there is no such thing as religious intolerance in Albania. In accordance with paragraph 32 of the Copenhagen Document, which the Albanian Government is engaged to respect to the letter, persons belonging to the Greek minority have the right freely to express, preserve and develop their religious identity. In this context, they have the right to establish and maintain organizations or associations for this purpose (para. 32.6).

The Autocephalous Orthodox Church of Albania enjoys the same freedom as all the other religious communities of our country. The Albanian Government has repeatedly declared that it will respect the Constitution of the Autocephalous Orthodox Church of Albania. It values the work done by Archbishop Anastasios Yanoulatos, who is himself a Greek, in reconstructing the Church, while at the same time making it clear in public statements that, in accordance with the Constitution of this Church, his mission at the head of the Autocephalous Orthodox Church of Albania has a temporary character, until an Albanian priest is prepared to assume his functions.

It is a few months now that the Albanian Parliament has adopted a law on the return or compensation of property confiscated by the former Communist regime, which puts all subjects, including religious communities, on an equal footing and is in full compliance with the standards of European legislation.

Archimandrite Chrysostomos Maidonis was expelled from Albania for reasons which have nothing to do with his supposed religious functions. Having put himself in the service of Greek chauvinist circles, he carried out subversive propaganda aimed ultimately at bringing about the annexation of southern Albania to Greece, which no Albanian Government, just as any other Government, could tolerate, as it represented a gross interference in the internal affairs of a foreign country and an attempt at violating its integrity. All allegations of police brutality or maltreatment are entirely false."

Algeria

27. In a communication dated 22 September 1993, addressed to the Government of Algeria, the Special Rapporteur transmitted the following information:

"According to information received, six Algerian writers have been killed in Algiers since March 1993 by Islamic extremists for having criticized radical Islamic groups and advocated secularism. The persons in question are Laadi Flici, a doctor, writer and member of the National Consultative Council, killed in the Casbah on 16 March 1993; Tahar Djaout, founder and chief editor of Ruptures, a new weekly magazine, and known for his opposition to Islamic fundamentalism, killed on 27 May 1993; Mahfoud Boucebsi, a writer and psychoanalyst and Vice-President of the International Association for Child and Adolescent

Psychology and Allied Professions, also known for his writings opposing Islamic fundamentalists, stabbed on 15 June 1993; Mohamed Boukhobza, a sociologist and writer, acting director of the National Institute for Global Strategic Studies, killed in front of his children at his home on 22 June 1993; Rabah Zenati, a television journalist and national news specialist, killed on 3 August 1993 outside his parents' house in the Cherarba district for his report on the "march of the democrats", broadcast last March; Abdelhamid Benmeni, a journalist for the daily Algérie-Actualité, shot at point-blank range at his home in the Eucalyptus district on 9 August 1993 by three masked men wearing riot control gear."

28. On 3 December 1993, the Permanent Mission of the People's Democratic Republic of Algeria to the United Nations Office at Geneva transmitted the following information on the above-mentioned communication addressed to it by the Special Rapporteur:

"The importance attached by Algeria to observance of the human rights and fundamental freedoms of the individual is demonstrated by its accession to all the instruments concerning the protection and promotion of human rights.

Accordingly, the Algerian Government's position regarding acts of violence linked with religious extremism is naturally one of firm and unequivocal condemnation.

The building of a modern democratic State guaranteeing all freedoms depends on the eradication of extremism which, in the guise of religion, makes use of violence constituting a negation of human rights, beginning with the most sacrosanct of them, the right to life.

Motivated by this conviction, Algeria is resolved to continue its fight against this phenomenon and the violence which typifies it.

Specifically with regard to the question of the murders of Algerian intellectuals, as well as of religious figures, it should be noted that these murders were preceded by preachings by persons who diverted various places of worship from their intended purpose of promoting tolerance and brotherhood to foster hatred of men of science and learning and, in some cases, even of religious figures preaching tolerance and rejecting the political ideology advocated by religious extremists.

A non-exhaustive list of intellectuals, doctors, journalists and religious figures who have fallen victim to terrorism is set out below:

1. Academics

Abdelhafid Sanhadri: the first intellectual to be murdered, Mr. Sanhadri was a founder-member of the National Committee for the Safeguard of Algeria (CNSA) and a member of the National Consultative Council (CCN).

Djillali Liabés: teacher of sociology, progressive modernist, known for his dual francophone and arabophone culture. Significantly, his murder occurred some weeks after the political authorities had made him head of a commission of high-level experts to consider the prospects for the development of Algerian society after the year 2000.

Ahmed Hambli: An Islamic Shariah lecturer at the University of Tizi-Ouzou, known for his moderate views in the Islamic Da'wa which he advocated in mosques and in Islamic benevolent associations. He was murdered on 30 September 1993 at the entrance to Tizi-Ouzou University while alighting from his car, in front of a crowd of students.

M'hamed Boukhobza: sociologist, Director of the National Institute for Global Strategic Studies and member of the National Consultative Council. He was murdered (throat cut) on 22 June 1993 in front of his children, who were forced by the terrorists to witness the act.

2. Doctors

Mahfoud Boucebci: world-famous psychiatrist known for his commitment to the protection of 'unmarried mothers' and 'illegitimate children'. He was stabbed to death on 15 June 1993 at the entrance to Drid Hocine Hospital, in Algiers.

Djillali Belkhenchir: committed human rights activist and democrat and member of the Algerian Committee against Torture and the National Committee for the Safeguard of Algeria. His murder, which was committed on the premises of the hospital in which he was working as a paediatrician, was universally condemned.

Laadi Flici: doctor, writer, member of the National Consultative Council, stabbed to death on 24 March 1993 at his office in the Algiers Casbah.

3. Journalists

Armed violence linked with religious extremism has taken a heavy toll of the Algerian journalist community.

Since they began to be targeted by terrorists, eight have been killed and two have miraculously escaped attempts on their lives. Today, no journalist is safe. Incitements to murder and attempts on the lives of members of the press, because of their commitment to democracy and their opposition to religious extremist violence, are numerous.

It should also be noted in this connection that two bombs exploded on the premises of the main newsagent (Place du 1er Mai, Algiers), and in the television building (Boulevard des Martyrs, Algiers), fortunately causing only material damage.

Tahar Djaout: journalist and writer, died on 2 June 1993, after being shot several times, at least once in the head, on 26 May. His killer had waited for him in the morning outside his apartment building and shot him down in cold blood as he was leaving for work.

Rabah Zenati: television journalist (ENTV), murdered on 4 August 1993, outside his parents' home in the suburbs of Algiers.

Abdelhamid Benmeni: executive, killed on 11 August 1993 at his home in the suburbs of Algiers.

Saadeddine (Saad) Bakhatoui: four men appeared at his home after dark and abducted him. His body was found on 13 September 1993 in the environs of the town where he lived (Larbaa), some 30 km from Algiers.

Abderrahmane Chergou: murdered in the stairwell of his apartment building in Mohammadia, in the suburbs of Algiers, one morning in late September. He was stabbed repeatedly and his throat cut, and was dead on arrival at the Belfort (El-Harrach) hospital about half an hour after the attack.

Djamel Bouhidel: photographer, killed on 5 October 1993.

Mustapha Abada: former acting director of Algerian television. Killed by a shot to the head on Thursday, 14 October 1993.

Smail Yefsah: ENTV journalist, shot to death after being stabbed repeatedly on 18 October 1993 outside his home in Bab-Ezzouar. This appalling crime was committed by six armed men who had been waiting for him to leave since 6 a.m.

4. Religious figures

A number of imams appointed by the Ministry of Religious Affairs to officiate in mosques have been killed:

Mokdad Bentabri, killed on 13 March 1993;

Ali Boukhelfa, killed on 28 March 1993;

Abdelmajid Ramel, killed on 9 May 1993;

Ould Saad Saoud Abdelaziz, killed in May 1993;

Salah Rabie, killed on 26 June 1993;

Houari Yacoub, killed on 1 September 1993;

Chaouch Boudjemaa, killed on 24 September 1993;

Abdelkader Boudjemaa, killed on 10 October 1993;

Omar Arar, killed on 13 October 1993."

Germany

29. In a communication dated 14 October 1993, addressed to the Government of Germany, the Special Rapporteur transmitted the following information:

> "According to the information received, the Church of Scientology was discriminated against in several ways in Germany between 1990 and 1992.
>
> The discrimination in question is said to have affected both the professional and private lives of members of the Church of Scientology. Reportedly, several persons were dismissed from their jobs in private companies in Ulm, Kiel, Hannover and Schwabhausen because of their membership in the Church of Scientology; other people were asked to give up functions on advisory boards, lost customers in their businesses, or credits in their banks, once their membership in the above Church was known; some members also experienced difficulties for renting halls in hotels for conferences related to the Church of Scientology. Many other members of the Church of Scientology have been the victims of defamation, insults, attacks on property, bomb scares and even death threats. In particular, the Special Rapporteur has also been informed of the following incidents:
>
> On 20 December 1990 the car of a church member living in Rendsburg was splashed with red paint while he was giving a lecture on scientology. The damage reportedly amounted to DM 1,000.
>
> During the summer of 1991 the premises of the Church of Scientology Information Centre in the Eppendorf district of Hamburg were ransacked by persons unknown. Windows, books, video recorders and a computer, of a total value of DM 25,000, were destroyed.
>
> On 2 October 1991 an individual wearing a military uniform entered the premises of the Church of Scientology in Hamburg and attacked the receptionist, who had to be treated in hospital for an eye injury. Another staff member who had come to the aid of this colleague was struck in the face and sustained a broken nose.
>
> On the evening of 31 December 1991 several youths coming from a Protestant community centre went to the Church of Scientology headquarters and threw firecrackers into the entrance hall. When a member of the Church came out to see what was happening, he received a head injury. A friend who had come to his aid had his arm broken and was kicked in the head while lying on the ground. The cars parked in front of the church were damaged and stones were thrown through the building's windows.
>
> On 22 February 1992 the Vice-President of the Church of Scientology of Hamburg was visited by a person who said that he had heard of plans to have him (the Vice-President) murdered by a professional killer who was to come from Italy. The visitor added that he would be able to supply

the name and details of the killer for the sum of DM 3,000 and asked for an advance payment of that amount. However, when the Vice-President informed the police, the visitor suddenly disappeared.

On 5 February 1993, during a televised interview in Bremen with the spokesman of the Church of Scientology in Hamburg, someone rang up the station to say that the spokesman would be murdered after the interview. At the end of the programme the spokesman had to be escorted to his hotel by the criminal police.

The Church of Scientology is also said to be the victim of defamation in public places and universities and during election campaigns. According to the information received, a number of these acts have been initiated by 'experts on sects' opposed to the Church of Scientology.

Political parties such as the Christian Democratic Union (CDU) and the German Social Democratic Party (SPD) are said to have repeatedly adopted resolutions (some at the parliamentary level) aimed at securing the banning of the Church of Scientology. In March 1991, on the basis of a questionnaire published by the SPD, the municipal council of Hamburg voted, at the request of the CDU, in favour of an economic boycott of the Church of Scientology."

30. On 21 December 1993, the Permanent Mission of Germany to the United Nations Office at Geneva transmitted to the Special Rapporteur the following information in reply to the above-mentioned allegation:

"Due to the federal structure of Germany various instances on the level of the Laender had to be involved, which delayed the information-gathering process. We apologize for this inconvenience. In order to speed up the transmission of the observations of the Federal Republic of Germany, only a faxed copy of the English translation is submitted.

The Federal Government's observation in essence points out that the so-called Scientology Church is a youth sect which uses religious connotations in order to cover a business strategy ruining many of its members. The Government of the Federal Republic of Germany hopes that the attached observations answer the questions put forward by the Special Rapporteur and remains at the Special Rapporteur's disposal for any further information.

The Permanent Mission of Germany avails itself of this opportunity to renew to the Secretary-General of the United Nations (Centre for Human Rights) the assurances of its highest consideration.

Observations by the Federal Republic of Germany on the accusation of discrimination against members of the Church of Scientology in the Federal Republic of Germany

I. The doctrine of the Scientology organization

The doctrine of scientology was developed by the American Lafayette Ronald Hubbard (1913-1986). In the thirties, Hubbard worked as a writer of science fiction, and in 1950 he published the book Dianetics: The Modern Science of Mental Health, in which he set out the rudiments of his ideas. These subsequently evolved into 'scientology'. The term 'dianetics' is meant to signify something like 'healing through reason'.

The basic premise of scientology is that the world is condemned to absolute ruin and that Hubbard discovered the only way to save it. Scientologists believe that mankind lives in a 'MEST' universe (a hybrid term and acronym of 'matter, energy, space, time'). He is said to consist of body, mind and the immortal thetan, a type of soul-spirit. The body is merely a shell inhabited by the thetan and discarded by it after death. In the view of the Scientology organization, the mind is a tool of the thetan. It is divided into the positive 'analytic mind' and the negative 'reactive mind'. The analytic mind contains all the information, experiences and data collected by an individual. The function of the reactive mind is to take charge during periods of unconsciousness and to collect the perceptions of the unconscious mind. These are stored as so-called engrams and are no longer accessible to the analytic mind. According to Scientologists, engrams are the root of all human failings not ascribable to physical causes, and particularly of all psychosomatic illnesses, neuroses and psychoses. Negative engrams are supposed to be eliminated by means of repeated questioning sessions ('auditing') with the aid of an electronic measuring device; a so-called 'E-meter', which works rather like a lie detector. By this method the individual is supposed first to achieve a 'clear' state and thereafter to attain 'total freedom'. The objective is to 'clear the planet' or in other words to establish the mastery of the organization over the entire earth.

II. The strategy for propagating Scientology and gaining acceptance for its ideas

The programme of the Scientology organization, the 'bridge to total freedom', contains a range of step-by-step courses and training sessions. Every Scientologist should undergo these if possible. Each course of therapy begins with a personality test (the 'Oxford capacity analysis'). It is the organization's practice to confront examinees with alleged personality weaknesses. Others are told that they could be capable of great things if they were to realize their innate potential through Scientological training. At the heart of the organization's programme is the practice of 'auditing'. With the aid of repeated questioning, the auditor and the member are supposed to identify the obstacles on the latter's path to a 'clear' state and, having thus become aware of these obstacles, to remove them. One of the organization's flagship courses is the so-called communication course during which trainees receive instruction in the techniques of 'confirmation' and 'confrontation'. Finally, the so-called cleansing run-down is intended to make Scientologists immune to nuclear radiation. It consists of spending extremely lengthy periods in a sauna, a course of large doses of vitamins, taking minerals and edible oil as food supplements and a programme of physical exercise.

In order to market these courses and other services, thereby propagating the 'bridge to total freedom', the Scientology organization has set up numerous branches, covert movements and groups. It sees itself as a service enterprise, selling materials and services aimed at 'liberating' the customer. The Bulletin of International Management, No. 7 of 2 February 1983, puts it this way:

> 'The only reason for the existence of Orgs [= Organizations] is to sell and supply materials and services to the public and to recruit members of the public to whom these can be sold and supplied. The aim is totally liberated customers.'

The Bulletin goes on to state:

> 'Any idea that an Org exists for any reason other than to sell and supply materials and services to (...) the public has to be dismissed.'

The organization's services are offered at high and constantly rising prices. Average earners cannot follow the 'bridge to total freedom' programme unless they considerably restrict their standard of living. Where several members of the same family are Scientologists, the cost of courses and training can threaten the family's livelihood.

At the same time, the organization involves members in its business activities. They are used as recruiters and sellers. If they sign up a new customer, they can expect discounts making it easier for them to attend future courses and training.

To achieve the aim of 'clearing the Planet', members are also meant to occupy key social, economic and political positions. Attempts to gain influence in these areas are manifold. For instance, the organization has founded its own companies to sell and market Scientology. It also works indirectly through various related organizations and through supportive members. In the consultative sphere, the organization offers 'therapeutic' facilities, such as the drug programme 'Narconon' and a free 'personality test'. The questionnaire associated with the latter comprises 200 questions and is distributed free of charge to passers-by or directly as a circular. A study has revealed that this test always produces negative findings about the respondent; according to the study, it has no scientific merit and serves only to recruit customers for the Scientology package of courses.

Companies are offered a broadly identical personality test for recruitment purposes. Responses are assessed by a company by the name of

U-Man, which has links with the Scientology organization. Moreover, consultancy firms offer management and business counselling services geared towards the organization's rationale.

The German Government is aware that members of the organization have already managed to take over and restructure some companies. An indication of their dependence on the Scientology organization is membership of 'WISE', the World Institute of Scientology and Enterprises. In Germany, over 70 companies are said to be members already.

In its management directive ED 1040, the Scientology organization gives advice along the following lines:

1. Find yourself a business that is already working very well.

2. Approach the most senior Director. Offer to ensure that his business will bring in more money for him.

3. Identify SPs (suppressive persons) in the organization and throw them out.

4. Audit the key employees and show them what it's all about; that will set the process in motion. They will persuade junior management and the rest of the staff to undergo auditing too.

(Source Haack/Gandow: Scientology, Dianetik und andere Hubbardismen [Scientology, Dianetics and other Hubbardisms], p. 48.)

Critics and former members of the Scientology organization are likely targets for threatening letters, insults and false suspicions. In some cases, events organized by action groups formed to protest against the organization's activities have apparently been disrupted and property damaged.

III. Legal status of the Scientology organization in the Federal Republic of Germany

The Federal Government considers the Scientology organization to be a youth sect. Because of the dangers they can pose to the personal development and social relations of young people, the authorities, and indeed the public at large, have kept a particularly watchful eye on them for many years.

Critics of the organization take the view that its programme, the 'bridge to total freedom', is in fact a cover for a business strategy characterized by an unbridled sales drive combined with a ruthless will to prevail. The individual, they say, is isolated from his environment; alternative lifestyles are systematically eliminated until he is ultimately devoted to Scientoloty and achieving new levels of liberation. The organization's courses (such as 'auditing', the communication course and the 'cleansing run-down') are considered pseudo-scientific processes that seriously jeopardize mental and physical health. For a good few people, membership of the organization leads to financial ruin.

The Basic Law of the Federal Republic of Germany, dated 23 May 1949, states that 'Everyone shall have the right to the free development of his personality in so far as he does not violate the rights of others or offend against the constitutional order or against morality' (art. 2, para. 1, of the Basic Law); 'Everyone shall have the right to life and physical integrity' (first sentence of art. 2, para. 2); and 'Everyone shall have the right freely to express and disseminate his opinion in speech, writing and pictures' (first sentence of art. 5, para. 1). According to the first sentence of article 5, paragraph 3, of the Basic Law, 'Art and science, research and teaching shall be free'. Lastly, article 3 contains a general ban on discrimination; its paragraph 3 enshrines a constitutional imperative that 'No one may be disadvantaged or favoured because of his (...) faith, or his religious or political opinions'.

Moreover, article 4 sets out that:

> '(1) Freedom of faith, of conscience and freedom to profess a religion or a particular philosophy (Weltanschauung) shall be inviolable;
>
> (2) The undisturbed practice of religion shall be guaranteed.'

The courts have never ruled definitively on whether the Scientology organization is a religious or ideological community, such as would be eligible for special protection under article 4 of the Basic Law.

According to decisions taken by the Federal Constitutional Court, this does not depend solely on how an organization perceives itself. Instead, the decisive factor is whether its spiritual heritage or outward manifestations demonstrate that it is in fact such a community. The Court has held that it is of no importance whether the community engages in a level of economic activity which overshadows the communal practice of religion or ideology. Its religious and ideological doctrines must not, however, merely serve as a pretext for the pursuit of economic objectives.

Nor are the freedoms guaranteed under article 4 boundless. Freedom of faith and of religious or ideological creed, as well as freedom to practise religion undisturbed, reach their limits when the exercise of these basic rights by an entitled person comes into conflict with the fundamental rights of people of other persuasions. Such rights could conceivably be those to human dignity and personal liberty defined in articles 1 and 2. Also, religious and ideological communities must observe the general laws that apply to everyone, such as the penal statutes.

For its part, the State is required to protect the individual member or his organization from verbal, physical or other attacks on his body, his life, his property, his honour or his general personal rights.

That applies irrespective of whether an organization is recognized as an ideological or religious community within the meaning of article 4 of the Basic Law.

In this conflict between the rights of the organization and its members and the duty of the State to afford protection to all its citizens, the Federal Government participates in the essential intellectual and political examination of the problems surrounding so-called youth sects and psycho-groups by promoting public awareness. By reason of the neutrality imposed on it by the Basic Law, the State is required to exercise restraint and practise objectivity in these matters. According to decisions of the Federal Constitutional Court, however, the State is entitled not only to communicate facts, but also to express value judgements of its own based on those facts. And if the statutory rights of its citizens are threatened, it may even issue warnings.

The Federal Government knows that members of the Scientology organization are subject to tensions in their professional and private lives as a result of membership. The methods employed by the organization to recruit new members and to try and achieve the 'clearing of the planet' are known to the general public in the Federal Republic of Germany. Intensive coverage by the media has meant that knowledge of the financial burden on the individual and the danger of personality changes is as widespread as the perception of the organization as a purely profit-oriented enterprise that enslaves and manipulates its members for this purpose.

The Federal Government is not aware whether membership alone of the Scientology organization has caused members to lose their jobs or business customers or to be refused credit from their banks or the use of hotel conference rooms for meetings of the organization. In any event the principle of private autonomy applies in the Federal Republic of Germany; the individual citizen enjoys the fundamental freedom to conclude contracts at will. He may terminate an existing contract subject to the general legal conditions. Political parties, too, are free to select their own members. Anyone who considers a measure directed against him to be discriminatory can refer the matter to the domestic courts. According to the legal nature of the matter in question, the complaint will be dealt with by the labour courts, the administrative courts or the courts of ordinary jurisdiction. Anyone who suspects a criminal offence to have been committed may approach the police or the Public Prosecution Office. The Federal Government has no knowledge which would suggest that many members of the Scientology organization have been victims of defamation, insults, attacks on property, bomb scares or even death threats. In the Free and Hanseatic City of Hamburg, where the vast majority of the instances of verbal or physical attack on members of the organization listed in the Special Rapporteur's summary allegedly took place, the incidents - as far as could be ascertained in the short time available to the national authorities - were not recorded in the files of either the interior or justice authorities. Only the incidents of 5 September 1991 and

22 February 1992 had been reported to the competent government agencies. The identity of the offenders could not be established, and so proceedings were discontinued.

The effects which membership of the Scientology organization often have for the psyche and the entire living environment of individual members are also a source of great anxiety for State agencies. It is against this background that the request addressed by the City State Parliament of the Free and Hanseatic City of Hamburg to the Senate in March 1992 should be viewed. It read as follows:

'The Senate is requested,

1. Not to rent out public buildings to the Church of Scientology or related companies;

2. Not to conclude property deals with them and, in the case of real-estate sales, to exercise existing purchase rights wherever there is a risk of the Church of Scientology or related or associated companies acting as purchasers;

3. To examine whether, in State-controlled real-estate and property transactions, influence can be brought to bear to ensure that no dealings with the Church of Scientology or related companies are entered into or continued;

4. To examine how far it is legally admissible not to conclude public contracts with the Church of Scientology or related companies.'

A definitive assessment of the request in terms of the law and the Senate's decision on it are still being awaited.

It should, however, be noted that in the Federal Republic of Germany, even actions of the State can be made the subject of a full judicial review.

A statement on the accusation of discrimination against the Scientology organization and its members in the Federal Republic of Germany, which is to be forwarded to the Sub-Commission of the Commission on Human Rights in the proceedings according to resolution 1503 (XLVIII) of the Economic and Social Council, is at present in preparation. It is intended to submit the statement in Geneva by the end of March 1994."

Saudi Arabia

31. In a communication dated 31 August 1993 addressed to the Government of Saudi Arabia, the Special Rapporteur transmitted the following information:

"According to the information received, the members of the Shia Muslim community of Saudi Arabia, who number more than 1 million, continue to suffer persecution, arbitrary arrest, imprisonment and on occasion execution on account of their religious beliefs. Members of this community are reported to be the targets of a campaign of intimidation, terror, harassment, as well as economic and cultural repression on the part of the authorities.

It has been alleged that Shia students find it difficult to enrol at universities and that their job opportunities are significantly reduced. Shia religious buildings are said to have been destroyed while the 'Hawza', a traditional centre of Shia religious studies, is reported to have been closed. The profession of Shia clerics is reportedly not recognized and they are not allowed to have photographs for personal documents taken in traditional religious dress. The use of religious tracts which is required for Shia religious rites and public displays of Shia religious customs are alleged to be prohibited.

It has also been reported that in a number of recent religious rulings (fatwas), members of the Shia faith have been declared infidels and aliens to the Muslim faith. They are reportedly prohibited from intermarrying, socializing and even eating with other Muslims. It has also been alleged that Shia publications continue to be banned while the publication of material in which the Shia faith is attacked is said to be encouraged. In addition, books against the Shias are alleged to be distributed free of charge.

The Special Rapporteur was informed that on 3 September 1992, Mr. Sadeq Abdul Karim Mal-Allah, a member of the Shia Muslim community aged 22, was beheaded in public in the town of Al-Qarif after having been sentenced to death despite having recanted his statements by a court which met in camera. Mr. Mal-Allah, who was charged with 'slandering God, His Prophet and the Holy Koran', is reported not to have had access to legal counsel during his trial. He had been arrested at the age of 17 in 1988. It has been alleged that Mr. Mal-Allah was asked to recant his Shia faith, which he refused, and was subsequently placed in solitary confinement and subjected to physical abuse.

It has been reported that the legal system of Saudi Arabia allows for flogging, amputation and beheading for the punishment of, inter alia, comments on religion. In this connection, the Special Rapporteur has been informed about the cases of Abdel Halek Abd-al-Galik al-Janabi, 26, and Turki al-Turki, 31, two men who also belong to the Shia Muslim community, who were arrested in January 1992 on charges of blasphemy. It is feared that they may also face execution.

It has also been alleged that Mr. Michael Cornelius Michael, an Egyptian carpenter aged 36, who was employed in Alsweidi, in Riyadh, was taken from his workshop on 1 October 1992 by a policeman and three men belonging to the Al'amr Bilmarouf Wal'nahie anil'Munkar (Committee for the Propagation of Virtue and Prevention of Vice) to a court in Riyadh. Although he is illiterate, Mr. Michael had been accused of reading a chapter of the Koran without mentioning the name of the Holy Prophet Muhammed. He was subsequently summoned by the Almahkamah Almousta'jilah (the 'quick matters court') in Riyadh where he is reported to have been asked to embrace the Muslim faith which he allegedly refused to do three times. Mr. Michael was also asked about his Christian faith by the Committee for the Propagation of Virtue and Prevention of Vice, by officials at the Alsweidi and Shoubra police stations, before the Almahkamah Almousta'jilah and before the Almahkamah Alkoubra (the High Court), before which he appeared twice. On 26 October 1992, Mr. Michael was sentenced to seven years of imprisonment and 1,000 lashes by the judge, Sheikh Hamad Almougbil. The sentence was reportedly to be carried out on 26 November 1992. Mr. Michael is alleged to have been taken initially to Almelen prison and subsequently transferred to the Alha'ir prison, both of which are located in Riyadh."

32. On 8 November 1993, the Permanent Mission of the Kingdom of Saudi Arabia to the United Nations Office at Geneva sent its observations concerning the above-mentioned communication which had been transmitted to it by the Special Rapporteur:

> "Our comment on this communication is as follows:
>
> The Special Rapporteur whose report on Saudi Arabia is attached to your communication is referring to 'allegations' described by him as such. Hence, we do not dignify such 'allegations'.
>
> His so-called reports are also loaded with his own false interpretation of the Islamic religion and Islamic practices, in a manner unbecoming an international civil servant whose qualification to assess the Islamic religion is practically nil and his summation based on 'allegations' is deplorable. As for the 'Shia', as he calls them, they are adherents in their own traditional way to the faith of Islam. It is a lie to state, as the Rapporteur did, that they are prevented from practising Islam in mosques or religious and social events. If it happened that a few Saudi individuals commit a crime in the country, the law of the land is applied to such crimes. It is unacceptable on the part of the Rapporteur to fill his bureaucratic job in bestowing on criminals the status of martyrs.
>
> As for foreign residents in Saudi Arabia, they are employed of their own free will and with more than adequate compensation and with an income several times higher than they can earn in their own homeland. If a foreigner violates the law of the host country, then its law is enforced by its Government.
>
> Foreign workers in Saudi Arabia are briefed on the Islamic law of the country before they are engaged as workers.
>
> Therefore the Mission has no alternative but to deplore this endless fabrication of 'allegations' forwarded to it by the Centre for Human Rights and the multiple 'fronts' of non-governmental and dubious organs peddling some sinister disinformation on Islam and the Islamic people. Is this a sort of a new 'crusade' which is so familiar in international politicking under the banner of the 'white men's burden'? Enough is enough of this unwarranted and unacceptable behaviour from whatever source it emanates."

33. The Special Rapporteur has no intention of venturing to initiate any form of polemic with anyone. He nevertheless considers it his duty to point out that:

(a) It is not for him to make accusations or to endorse what anyone else has said;

(b) He intends to examine those incidents and governmental decisions which, in his opinion, are liable to pose problems of conformity or compatibility with the provisions of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief;

(c) It is his responsibility, in the context of his mandate, to submit allegations to Governments and to ask them for clarification through their views and observations;

(d) It is incumbent on him to display, regardless of attitudes or reactions, patience, level-headedness and determination in order to ensure that, despite the complex or sensitive character of the problems in question, relations of cooperation and mutual assistance are established with all the parties concerned and that the internationally established standards - including those of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief - may be respected and implemented and everywhere be allowed their full scope.

Australia

34. In a communication dated 14 October 1993 addressed to the Government of Australia, the Special Rapporteur transmitted the following information:

> "According to the information received, 'The Family' (a movement which originated in the former 'Children of God' movement, which was officially disbanded in 1978) is a New Religious Movement (NRM) with communities in six continents and basing itself on the Bible and on belief in God. Reportedly it believes that the world is in its last days before the emergence of a New World Order, under the power of an ungodly Big Brother, whose reign will not end until Jesus returns to earth.
>
> 'The Family' as a whole is said to be supported entirely by money collected from the members under its spiritual ministry. Each individual community is financially independent.
>
> The NRM considers that it is being persecuted by 'anti-cult' associations, such as the Association de Défense des Familles et de l'Individu (ADFI) in France, the Cult Awareness Network (CAN) in the United States and Family Action Information Rescue (FAIR) in Great Britain, which it claims are seeking to destroy 'The Family'.
>
> The Special Rapporteur has learned that the six 'Family' communities in Sydney and Melbourne were raided by the police at dawn on 15 May 1992. Some 20 policemen, accompanied by about 30 employees of the State medico-social services, are said to have been involved in each house search.
>
> It is stated that approximately 142 children from 2 to 16 years of age were taken away from their families and subjected to questioning and intensive medical examinations; the parents were asked not to resist.

> Some television stations, which had obviously been informed in advance, filmed the events and broadcast them in their evening editions. After six days of incommunicado detention the children were returned to their parents for lack of evidence supporting the charges against the members of 'The Family', which is described by some of the media as a 'dangerous sect'.
>
> Lawyers in both Sydney and Melbourne applied to the courts to have the children released; the Commonwealth Government was also asked by the Opposition to open an inquiry. Part of the dispute is said to turn on the differing interpretations of the legal status of teaching in the home, practised by 'The Family' communities, which is not recognized by the State medico-social services.
>
> In October 1992, an amicable agreement was reached between 'The Family''s lawyers and the representatives of the Government of New South Wales to halt the judicial proceedings. On 31 October 1992 an agreement was signed between the parties suspending proceedings for 12 months. The medico-social services reportedly promised to withdraw their application for custody of the children at the end of that period. For their part, the members of 'The Family' agreed to allow their children to participate in open-air athletic activities for three hours per week in addition to their schooling.
>
> At the request of the lawyers of several members of 'The Family', the Commonwealth ombudsman is said to have ordered an inquiry into misuse of authority on the part of the State medico-social services."

35. In a letter of 29 November 1993, the Australian Attorney-General's Department stated that the Australian authorities were considering the questions raised by the Special Rapporteur and that it would transmit its observations as soon as possible at the beginning of 1994.

Bangladesh

36. In a communication dated 31 August 1993, addressed to the Government of Bangladesh, the Special Rapporteur transmitted the following information:

> "According to the information received, following the destruction in December 1992 of the Babri mosque in Ayodhya, India, thousands of members of the Hindu community in Bangladesh have been subjected to attacks and at times even killed while their property, houses and temples have been looted, damaged or destroyed, particularly in the Dhaka and Chittagong areas.
>
> A number of incidents which occurred in December 1992 were brought to the attention of the Special Rapporteur. It has been alleged that the Fatikchari and Mireswari villages in Chittagong have been burned completely. Rioters are reported to have set at least three temples on fire in Sunamganj, while a Hindu man is said to have been beaten to death in Habiganj. Rioters allegedly burned temples and houses belonging to Hindus in north-eastern Bangladesh as well as on the southern island of

Kutubdia. Two Hindus are reported to have been shot dead by gunmen in Bhola, in the south of the country. Muslims are said to have set fire to four temples in the north-eastern town of Sylhet. On 7 December 1992, the 500 year-old Dhakeswari Temple, which had been damaged previously, was allegedly attacked. The Bholanath Giri Ashram in Dhaka was reportedly looted and attacked. Five Hindu temples in Chittagong, including Panchanan Dham and Tulsi Dham, are said to have sustained heavy damage. It has been alleged that the Kaibalyadham temple was bulldozed on 6 or 7 December 1992. Women were reportedly abducted and molested in the Baculia and Illias Colonies. Women are also said to have been raped. Attacks on Hindus and the looting of their property has allegedly also taken place in Noakhali. The authorities are reported not to have taken any measures to stop the incidents. The Special Rapporteur was informed that the publication of the Glani periodical of the Hindu community in Bangladesh has been banned.

The above-mentioned practices have reportedly not been limited to the year 1992. It has been alleged that on 8 November 1990 approximately 2,400 temples had been destroyed. It has also been reported that the Hindu community of Bangladesh is not the only one which has been affected. Christian neighbourhoods have also been attacked, a church has been damaged and a number of houses have been burned down.

The Special Rapporteur was also informed that the Buddhist community of Bangladesh, especially the one living in the Chittagong Hill Tracts, has on occasion been subjected to harassment and ill-treatment since 1980. It has been alleged that they are prevented from observing their religious rites and celebrating their religious holidays and festivals. Fire has reportedly been set to houses in Langadu and the victims are said to have been buried without the required religious rituals. A number of housing facilities for monks were reportedly also destroyed on that occasion, forcing them to stay in the temple and preventing them from properly observing the holy Vassabasa practice which takes place from mid-July to mid-September. On 10 April 1992, an attack on Logang village in the Khagrachari district of the Chittagong Hill Tracts is said to have taken place with the collusion of the authorities. Numerous persons were killed and houses burned down.

A number of statues of the Buddha are said to have been destroyed over the years. In 1980, the statue of the Buddha is alleged to have been broken and Buddhist monks tortured at the Kalampati Buddha Vihara Kowkhali Upazila. A number of worshippers are said to have fallen victim to gunfire on that occasion. In 1984, three Buddhist temples, in Bhushan Chara, Gourastan and Chota Harina, were allegedly burned to the ground. In 1986, three Buddhist temples, in Kalanal, Sutakarma and in Shantipur, located in the Panchari Upazila, as well as seven Buddhist temples located in Dighinala Upazila, were reportedly set on fire. In 1987, it has been alleged that the Ven. Ratana Jyoti, the head priest of the Mitinga Chari Buddhist temple in Jurachari Upazila and the Ven. Chandra Pala Samanera from the Dhamai Para Buddhist temple were subjected to torture."

Bulgaria

37. In a communication dated 22 September 1993, addressed to the Government of Bulgaria, the Special Rapporteur transmitted the following information:

> "According to the information received, the Government of Bulgaria, on the basis of a Law on Denominations of 24 February 1949, which the Constitutional Court has just declared unconstitutional, has proclaimed the illegitimacy of the Patriarch Maxim and the non-existence of the Holy Synod of the Bulgarian Orthodox Church to the benefit of a rival synod composed of the Metropolitans Pimen, Pankrati, Kalinik and Stefan.
>
> Shortly after their appointment by the authorities, the members of the new synod reportedly occupied by force the premises of the Holy Synod and prevented the leaders of the Bulgarian Orthodox Church from doing their work. Following an unsuccessful attempt to bring the case before the Supreme Court, the Holy Synod reportedly met to condemn the members of the new synod and to deprive them of their ecclesiastic rank and religious authority.
>
> On 1 June 1992, the Director of the Department of Religious Affairs, implementing a decision of the Council of Ministers of the Bulgarian Government, stripped the Holy Synod of all its rights and ordered the bank to freeze its assets and to transfer them to the new synod. It was reportedly on this basis that the funds needed for the operation of the Theological Seminary in Plovdiv for the year 1992-1993 were refused, as was payment of the wages of Bulgarian Orthodox Church employees until the latter signed a declaration of support for the new synod appointed by the Bulgarian Government.
>
> Other information transmitted to the Special Rapporteur refers to an appeal signed by more than 4,000 Protestants throughout Bulgaria and addressed, on 29 April 1993, to the National Assembly protesting at acts of intolerance against them and against other non-Orthodox Christians. These acts were, they claimed, not only tolerated by the authorities but widely publicized throughout the country by Bulgarian radio, television and newspapers.
>
> Any allegiance other than to the Orthodox religion is presented by the mass media as a deviation from fundamental biblical principles and as originating from membership of such sects as Hare Krishna, the Mormons, the Jehovah's Witnesses or the Moonies. Traditional Protestants in Bulgaria are accordingly being subjected to a slander campaign, paving the way for new forms of religious discrimination and incitement to hatred and oppression of Bulgarian citizens who do not share the country's dominant religion, namely, the Orthodox faith.
>
> On 2 April 1993, Orthodox priests, students and teachers from the Eastern Orthodox Seminary reportedly marched through the streets of Sofia brandishing torches and setting fire to various symbols of the Protestant faith which they had seized. The day before, the Bulgarian authorities had delayed and subsequently forbidden the entry into the country of a number of Swedish Protestants who had arrived to attend an

interdenominational conference of 3,000 persons in Sofia. After deploying troops around their plane at the airport, the Bulgarian authorities forced the foreign guests to re-embark and fly on to Greece.

In their appeal to the National Assembly, the Bulgarian Protestants reportedly emphasized that two members of Parliament, Christopher Subev and Stephan Stephanov, practising priests of the Bulgarian Orthodox Church, had called for a new law on religious beliefs which would ensure the supremacy of the Orthodox Church in the sectors of culture, social affairs, education and the mass media.

In view of the foregoing, the Bulgarian Protestants consider that two specific articles of the Bulgarian Constitution have been infringed: article 37, paragraph 1, which declares that the State should participate in the maintenance of tolerance and respect between believers belonging to various religious groups and between believers and atheists; and article 39, paragraph 2, which prohibits the right to freedom of expression from being exercised in a manner aimed at sullying the reputation of others or jeopardizing the enjoyment of their rights.

Chapter 9, section 1, of the Convention for the Protection of Human Rights and Fundamental Freedoms, adopted by the Council of Europe and ratified by the Bulgarian Government, has also been infringed, according to the Bulgarian Protestants. The Convention stipulates that every person has the right to change his religion or beliefs on an individual basis or together with other persons.

Consequently, the Bulgarian Protestants are protesting vigorously against the enactment of a new law on religious beliefs establishing the supremacy of the Orthodox religion in Bulgaria and preventing them from practising their faith freely."

38. On 15 December 1993, the Permanent Mission of the Republic of Bulgaria to the United Nations Office at Geneva transmitted to the Special Rapporteur the following information concerning the above allegations:

"In reply to the questions put in your letter, I have the honour to provide you with a number of explanations pertaining to the decision of the Directorate for Denominations at the Council of Ministers of the Republic of Bulgaria (Act. No. 92 of 25 May 1992), on whose basis the new composition of the Holy Synod of the Bulgarian Orthodox Church has been approved, as well as to supply you, in the enclosed annex, with the additional information that you wanted on the legislature governing the freedom of denominations and the activities of religious institutions in the Republic of Bulgaria.

The above-mentioned act of the Directorate for Denominations has been appealed against in the Supreme Court, while the Constitutional Court, through decision No. 5 of 11 June 1992, has passed judgement on the appeal made by 59 Members of Parliament and the President of the Republic of Bulgaria concerning the conformity of the 1949 Law on Denominations with the Constitution (annex 1).

In conformity with the decision of the Constitutional Court (annex 2), a number of provisions of the 1949 Law on Denominations (arts. 10, 12, 18, 20, 21, 22 and 23), but not the whole of it, have been repealed as unconstitutional. In the circumstances, the procedure for registration of denominations before the organs of the Executive Power continues to be governed by articles 6, 9 and 16 of the 1949 Law on Denominations. On this basis, the Directorate for Denominations has established that the central leadership of the Bulgarian Orthodox Church had not been duly registered. This finding has not been called in question in decision No. 255 of 2 July 1992 of the Supreme Court of the Republic of Bulgaria.

As for the approval of the new composition of the Holy Synod, the Supreme Court established, through decision No. 255 of 5 November 1992, that the Directorate for Denominations had exceeded its authority. The latter has accepted the decision of the Supreme Court and has confirmed it through Act No. 82 of the new Director of the Directorate for Denominations, Mr. Hristo Matanov.

Since, in conformity with the Constitution of the Republic of Bulgaria (art. 13, para. 1), the religious institutions are separate from the State, the Executive Authority cannot interfere in the internal affairs of the Bulgarian Orthodox Church or take sides on points at issue. The latter are supposed to be settled through an Oecumenical Council, provided for by the Statute of the Bulgarian Orthodox Church.

In connection with the protest by 'more than 4,000 Bulgarian Protestants', who were said to have been discriminated against on the grounds of their religious convictions, after the examination conducted the following was established:

The majority among them do not belong to the duly registered Protestant denominations in Bulgaria. They represent organizations which have been registered, in conformity with the Law on Individuals and Families, as non-profit foundations, thus getting round to the aforementioned Law on Denominations, which sets out the procedure for registration of denominations. It is worth noting that the heads of the registered Protestant denominations have differentiated themselves from the manifestations of groups that groundlessly pass themselves off as representatives of Protestantism in Bulgaria.

The protest of the 4,000 Bulgarian citizens has been considered by two Commissions in the National Assembly (the Parliament), the Commission on Denominations and the Commission on Human Rights, but no decision has been reached.

It is true that some mass media do not make a distinction between sect and denomination, but the Executive Power has no right to encroach upon the freedom and independence of the mass media. In the case of false or offensive publications, those affected may publish a refutation or bring a lawsuit against the authors of publications.

In their public appearances, the representatives of the Directorate for Denominations have called attention to the necessity of making a distinction between sect and denomination. The Executive respects the Protestant denominations in the Republic of Bulgaria.

As for the drafts of a new law on denominations, the Bulgarian Government deems that the new law on denominations must be in conformity with the Constitution and the international treaties to which the Republic of Bulgaria is a party."

39. With regard to the Law on Denominations of 1949 contained in annex 1 of the Bulgarian Government's reply, the only articles mentioned in this report are those referring specifically to the problems raised by the Bulgarian authorities, namely, articles 6, 9, 10, 12, 16, 18 and 20-23.

"Annex 1

Art. 6. The denomination shall be recognized and acquire the capacity of a legal person as soon as its statutes are confirmed by the Minister for Foreign Affairs. From that time, its local sections shall also acquire the capacity of a legal person.

The Minister for Foreign Affairs may, by a substantiated decision, withdraw the recognition accorded when the activities of the denomination are in breach of the laws, public order or morality.

Art. 9. Every denomination shall be responsible to the leaders of the State.

The statutes of the denomination shall establish its administrative and representative organs and the procedures for their appointment and election.

Ministers of the denomination who maintain canonical relations with a foreign country may not take up their duties until their status has been confirmed by the Minister for Foreign Affairs.

Art. 10. Only Bulgarian nationals who are of an honest and trustworthy character and have not been deprived of their rights by a decision that has acquired the force of res judicata may be ministers of the denomination or officials of any denomination.

Art. 12. Ministers of a denomination and any other officials of religious institutions who infringe the law, public order or morality or act in breach of the democratic regulations of the State, without regard for any other responsibility they may have in this connection, may, on the proposal of the Minister for Foreign Affairs, be suspended or dismissed. Suspension or dismissal shall be rendered effective by the governing body of the denomination as soon as it receives the proposal to that effect from the Minister for Foreign Affairs. If the minister of the denomination is not suspended by the governing body of the denomination, he shall be suspended through the administrative channel.

Art. 16. The central governing bodies of the denomination shall be required to register with the Ministry of Foreign Affairs and the local administrative bodies (local people's councils), giving the names of all members of these governing bodies.

Art. 18. The supreme power of the State and its organs may be mentioned by the denomination at religious services, rites and ceremonies only in terms and language previously approved by the Ministry of Foreign Affairs.

Art. 20. The establishment of associations and organizations for a religious and moral purpose and the publication of printed works for religious education purposes shall be subject to the general legislation and administrative provisions.

The education and organization of children and young people shall be entrusted to the State and remain outside the sphere of activity of the denomination and its ministers.

Art. 21. The denomination may not establish hospitals, orphanages or similar establishments.

Such establishments existing at the time of enactment of this Law shall be placed under the control of the Ministry of Public Health or the Ministry of Labour and Social Welfare, and their movable and immovable property shall be transferred to State ownership. Fair compensation shall be paid to the owners of this property; its amount shall be established by a commission, appointed by the Minister for Foreign Affairs and composed of one representative of the Ministry of Foreign Affairs, one representative of the Ministry of Finance and one representative of the people's council in the area where the property is situated.

The decisions of the commission may be the subject of an appeal to the regional court, whose judgement shall be final.

Art. 22. The denomination may only maintain relations with denominations, establishments, organizations or official personalities whose headquarters or domicile are situated outside Bulgarian territory with the prior authorization of the Minister for Foreign Affairs.

Art. 23. The denomination or its communities (orders, congregations, missions, etc.) which have headquarters abroad may not establish sections (missions, orders, charitable institutions, etc.) in the People's Republic of Bulgaria. Those that exist at the time of enactment of this Law shall be closed within one month from the date of entry into force of this Law.

In accordance with the preceding paragraphs, all the property of the establishments (missions, orders, charitable institutions, etc.) that are closed shall be transferred to State ownership and fair compensation shall be paid to its owners. The amount of compensation shall be determined pursuant to article 21 of this Law."

"Annex 2

By a request dated 16 April 1992 and spelt out in detail on 23 April 1992, a group of 59 deputies to the thirty-sixth National Assembly called on the Constitutional Court to declare unconstitutional articles 12, 14, 15, 22 and 31 of the Law on Denominations (Official Gazette, No. 48 of 1949, amendment in Official Gazette No. 1 and No. 13/1951). The request was listed as constitutional case No. 10/1992 and by a decision of 24 April 1992, the National Assembly, the Council of Ministers, the Holy Synod of the Bulgarian Orthodox Church, the General Administration of the Mufti, the Catholic Church and the Evangelical Church of Fifty Days were declared interested parties in the case.

At the request of the President of the Republic dated 6 May 1992, spelt out in detail by a notification of 27 May 1992, a constitutional case (No. 11/1992) was initiated. The Constitutional Court was asked to give a binding interpretation of article 13, paragraphs 1 and 2, and article 37 of the Constitution, and to establish the unconstitutional character of the Law on Denominations. In this case the same parties were declared interested as in constitutional case No. 10/1992. Since the purpose of the request concerning constitutional case No. 10/1992 was covered by that of case No. 11/1992, the first constitutional case was assimilated to the second for joint deliberation and decision, the proceedings in constitutional case No. 10/1992 having been suspended.

By a decision of 4 June 1992, the Constitutional Court declared inadmissible the request by the group of deputies and the President of the Republic that the Law on Denominations be ruled unconstitutional. The Court's reasons were explained in detail in the circumstantial part of the decision addressed to the parties.

The request by the President of the Republic for an interpretation of the provisions of article 13, paragraphs 1 and 2, and article 37 of the Constitution was accepted by the same decision for a discussion of principle.

After discussion of the legal considerations and arguments set out in the request and the opinions of the parties to the case deposited in writing, the Constitutional Court expressed the following opinion:

The request relates to the interpretation of article 13, paragraphs 1 and 2, and article 37 of the Constitution. An interpretation of these provisions is requested not in general terms, but specifically about the relations between religious communities and institutions, on the one hand, and the State, on the other, with regard to the realization of the constitutionally proclaimed right to free profession of faith.

I. Character of the constitutional right to choice of faith and of religious convictions - article 37, paragraph 1, of the Constitution

Unquestionably, the interpretation of the provisions must begin with this, because the definition of this right determines precisely the character of the legal regime ensuring their realization in practice.

In constitutional law, it is generally accepted that freedom of conscience constitutes an area which, by its very essence, admits of no legal sanction. A person's espousal of a particular faith depends on his innermost belief, on which the State, even if it wished to do so, does not have the possibility of exerting a material influence.

This is the view of our legislature when it says that denominations are free and independent of the State (art. 13, paras. 1 and 2), that freedom of conscience, freedom of thought and the choice of religion and of religious or atheistic convictions are inviolable (art. 37, para. 1), and that no restriction of rights or privileges based on religion is admissible (art. 6, para. 2).

The analysis of the above-mentioned provisions can only lead to the conclusion that the right of worship, together with the right to freedom of thought and belief, is a fundamental and absolute individual right directly linked to the innermost spiritual life of the individual and accordingly constitutes a supreme value. This characteristic of the right to a religion not only determines the possible powers with regard to its exercise, but also outlines the whole legal regime governing this sphere.

It is vitally important to elucidate the legal content of the right to worship in accordance with the Constitution in force. This right comprises the following most important facets, among others:

Firstly, it is the right to free choice of religion.

Secondly, it affords the possibility of free practice of religion - through the press, through the spoken word, through the creation of religious communities and associations, their internal and external activities, and manifestations within society. Article 18, paragraph 4, of the United Nations International Covenant on Civil and Political Rights of 16 December 1966, ratified by the Republic of Bulgaria on 20 March 1976 (Official Gazette, No. 43/1976), recognizes the liberty of parents and, where applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

In interpreting the provisions of articles 13 and 37 of the Constitution, particular attention must be given to the concepts of a 'religious community' and 'religious institutions'; in other words, the nature of the religious association must be highlighted, in so far as it is precisely with the religious communities and institutions that the State maintains certain specific relations.

II. Right of association on religious grounds

As has already been stressed, one of the basic freedoms covered by the right of worship is the right of association on religious grounds. This right is formally stated in article 12 in relation to article 13 of the Constitution and leaves no room for any doubt. Only the terms 'religious community' and 'religious institution', used in article 13, paragraph 4, may give rise to some hesitation or to conflicting interpretations.

The first impression is of two totally different concepts. For example, it may be asserted from a literal interpretation of the texts that, according to article 13, paragraph 2, religious institutions (and not religious communities) are separate from the State, while on the other hand - according to paragraph 4 - neither, i.e. religious communities and religious institutions may be used for political purposes. This differentiation, which could result from a literal interpretation of the texts, is, however, apparent. The religious community comprises all persons professing a common religious belief. Institutions are the components of the organizational form and structure by means of which the respective community carries out its activities within the community and outside it - in society. The interpretation of article 13, paragraph 4, points towards understanding the situation in this way; the use of the conjunction 'and', and not 'or', as well as the reference in the same line, i.e. in an equivalent manner as regards the legal norm regarding religious communities and religious institutions. If article 13, paragraph 2, is interpreted semantically, could religious institutions separated from the State be imagined without a similar separation of the religious communities which they represent?

The right of religious association has a number of essential aspects which distinguish it from an association proper. These relate to the time for which the association is in force, and the objectives and tasks it assigns itself.

The interpretation of the Constitution in force leads to the conclusion that association on religious grounds takes place without contemplating its duration as a result of the intimate psychological motivation of the members of the association, the nature of which is religious. Another characteristic feature of the religious association is the fact that it assigns itself objectives and tasks related to the specific implementation of the right to worship.

In order to interpret the role of the State vis-à-vis religious communities and institutions, and generally vis-à-vis the implementation of the constitutional right to worship, the established limit of constitutional freedom of worship and that of the right of association to practise that right must first of all be clarified.

III. Limit of the constitutional freedom guaranteeing the profession of faith

The right to a religion is a fundamental, absolute, personal and inviolable human right and for these reasons it is proclaimed in the Constitution. The actual exercise of this right is not unlimited, however and its limits are strictly and explicitly established by the Constitution. A pertinent argument may also be found in the provisions of article 57. It is not permissible to extend these limits either by law or by interpretation.

According to article 13, paragraph 4, religious communities and institutions and religious beliefs, may not be used for political purposes, while, according to article 37, paragraph 2, freedom of conscience and freedom of worship may not be directed against national security, public order or public health and morals or against the rights and freedoms of other citizens.

The Constitutional Court does not go into detail as to the interpretation of each ground for restriction mentioned, since such an approach would go beyond the purpose of the interpretation of article 13, paragraphs 1 and 2, and article 37, as set out in the text of the request.

Such restrictions in this or similar aspects also exist in the international agreements and conventions to which Bulgaria is a party, such as the United Nations International Covenant on Civil and Political Rights, for example.

IV. The role of the State vis-à-vis the right to worship as well as vis-à-vis the communities and institutions through which it is realized

The characteristics of the right to worship as described so far, its legal substance and the constitutionally specified limits of its implementation, make it possible to clarify through interpretation, in accordance with the Constitution of the Republic of Bulgaria, the role of the State in this regard - what the State is required to do and what it may or may not do.

The State, as supreme object of sovereignty and guarantor of the civil rights embodied in the Constitution, is required to ensure conditions for the free and in all respects untrammelled exercise of the individual right to a religion of each Bulgarian citizen. This stems from the imperative obligation adopted in the preamble to the Constitution establishing as a supreme principle the rights of the individual, his dignity and his security (para. 3 of the preamble). This principle is further spelt out in article 6, paragraphs 1 and 2, article 13, paragraph 1, and article 37, paragraph 1, of the Constitution.

The State assumes the obligation of contributing to maintaining tolerance and mutual respect between persons of different religions and between believers and atheists - article 37, paragraph 2, of the Constitution.

However, through its organizations and institutions the State cannot interfere in or administer the internal organization of religious communities and institutions. These activities are governed by their statutes and other regulations concerning internal organization. This derives from a provision of article 13, paragraph 1, which states that forms of worship are free (individually and institutionally) and the text of article 13, paragraph 2, which explicitly lays down that religious institutions are separate from the State.

The non-interference of the State in the internal affairs of religious communities and institutions and their forms of expression in society also derives from the international obligations undertaken by Bulgaria pursuant to the provisions contained in particular in the United Nations International Covenant on Civil and Political Rights. In addition, article 9, paragraph 2, of the European Convention for the Protection of Human Rights and Fundamental Freedoms, which the Republic of Bulgaria will sign as a State member of the Council of Europe, provides:

> 'Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.'

As is apparent, the text is almost identical to article 37, paragraph 2, of our Constitution.

The rights of the State to interfere in the activities of religious communities and institutions are reduced to taking the necessary measures only in cases in which the hypotheses set out in article 13, paragraph 4, and article 37, paragraph 2, of the Constitution occur. This assessment may also be made when religious communities or institutions are registered.

Contradictions between the Law on Denominations as it stands and provisions of the recently adopted Constitution are expressly indicated in the text of the President of the Republic's request, in particular articles 10, 12, 18 and 20-23 of the Law on Denominations. It is precisely in order to establish this contradiction that the interpretation of article 13, paragraphs 1 and 2, and article 37 of the Constitution has been requested.

The Constitutional Court considers that, where the provisions of articles 13 and 37 of the Constitution as a valid right are concerned, it is paragraph 4 (1) of the Transitional and Final Provisions which is applicable vis-à-vis article 5, paragraph 2, of the Constitution. The provisions of the Law on Denominations which contradict articles 13 and 37 of the Constitution should be considered as having been repealed given the immediate effect of the latter as soon as the Constitution came into force. Any legal body can observe this without formality. For example, the provisions of articles 10, 12, 18 and 20-23 of the Law on Denominations directly contradict articles 13 and 37 of the Constitution.

In view of the considerations expressed above and in keeping with article 147, paragraph 1, p. 1., of the Constitution and article 12, paragraph 1, of the Constitutional Court Act, when the request by the President of the Republic concerning the interpretation of article 13, paragraphs 1 and 2, and article 37 of the Constitution was made, the Constitutional Court:

HAS DECIDED THAT:

1. The right of worship is an absolute, individual and inviolable right and a fundamental human right of every Bulgarian citizen. It constitutes a supreme value. The existence of society is inconceivable without the safeguards that ensure its exercise.

2. The right of worship comprises the following powers which are the most important:

- The right of free choice of denomination;

- The possibility of the free exercise of religion - through the spoken or written word or association.

3. The right of worship may not be restricted in any way except in the cases listed in article 13, paragraph 4, and article 37, paragraph 2, of the Constitution, and in particular when religious communities and institutions are used for political ends or when freedom of conscience and worship is directed against national security, public order, public health and morals or the rights and freedoms of other citizens. The grounds for restriction listed are exhaustive and may not be extended or added to by the law or by interpretation. The law may only determine the specific machinery for their implementation.

4. Religious communities and institutions are separate from the State. It is unacceptable for the State to interfere in or administer the internal organization of religious communities and institutions or their social forms, with the exception of the cases already mentioned and described in article 13, paragraph 4, and article 37, paragraph 2, of the Constitution.

5. As regards legal provisions still in existence which contradict articles 13 and 37 of the Constitution, paragraph 3 of the Transitional and Final Provisions is applicable vis-à-vis article 5, paragraph 2, of the Constitution of the Republic of Bulgaria."

Cameroon

40. In a communication dated 31 August 1993, addressed to the Government of Cameroon, the Special Rapporteur transmitted the following information.

> "According to the information received, Jehovah's Witnesses allegedly still do not have any legal status, although their request in this regard dates from 1990."

China

41. In a communication dated 25 November 1993, addressed to the Government of China, the Special Rapporteur transmitted the following information:

> "According to the information received by the Special Rapporteur, the measures taken by the Chinese authorities to limit and monitor the exercise of religious freedoms have been stepped up following the events of Tiananmen Square in 1989. In spite of the guarantees of religious freedom provided by article 36 of the Chinese Constitution, each of the five religions officially recognized in China, namely, Buddhism, Taoism, Islam, Catholicism and Protestantism, are reported to have been amalgamated into a 'patriotic association', which is answerable for its activities to the Government through the Office of Religious Affairs.
>
> The churches belonging to the Catholic Patriotic Association or the Three-Self Protestant Patriotic Movement are said to be regarded as affiliated. However, as the Catholic Patriotic Association does not recognize the Vatican, Catholic priests or communities still deferring to Rome do so illegally. At the same time, the Protestant Patriotic Movement is reportedly attempting to amalgamate all existing denominations into one, without taking account of doctrinal or liturgical differences. This is said to be giving rise to underground Protestant churches in private houses.
>
> The Chinese authorities are said to be alert to the changes occurring in the former socialist countries of Eastern Europe where the Church has often acted as a safe haven, as well as a force for change, as well as to the new inroads of Islam in the countries of Central Asia and the links between religion and nationalism in Tibet. Another reported cause for concern is the recent spread of Christianity among the Chinese population, particularly the young. There are said to be some 63 million Protestants now in China, and approximately 12 million Catholics.
>
> Since 1992, the Chinese authorities would seem to have been engaged in reducing authorized religious activities and restricting those which did not fit within existing structures. The reason given is that religion is increasingly being used to stir up trouble and is one of the six forces of opposition identified at national level against which a sweeping campaign is to be organized, as proposed recently by the Minister for Public Security at a national conference on this very question. Other Chinese leaders would appear to see the present progress of religion in China as an attempt to oppose the influence of the Chinese Communist Party.

The failure to re-elect the head of the official Chinese Protestant Church, Ding Guangxun, to the eighth People's National Congress at the beginning of 1993, although he had been a member since 1964 and had held high positions on the Standing Committee and on the Foreign Affairs Committee, should be viewed against this background. His non-re-election was allegedly due to the fact that, at a meeting of the Congress in July 1992, he reportedly opposed the oppressive measures taken against the underground Protestant churches, and criticized the implementation of Government policies in religious matters.

Also since 1992, the policy of repression pursued by the Chinese authorities against both Protestant and Catholic Churches outside official structures is said to have taken on new dimensions, including the resumption of sentencing by administrative decree, the transfer of prisoners from judicial to administrative detention, the repeated use of torture and the continual reaffirmation by the authorities of their determination to put an end to 'illegal' religious activities.

The authorities are also said to have changed their tactics of harassing Churches beyond their control. With a few exceptions, they no longer impose long prison sentences on worshippers considered to have contravened existing religious regulations, preferring instead to order lightning raids on churches, often accompanied by acts of violence against the congregations, and to sentence the individuals arrested to short terms of detention, associated with physical or mental intimidation.

A whole series of restrictions has been introduced for the surveillance of detainees after release, of foreigners visiting Chinese Churches or of members of the clergy going about their religious activities. Detainees have been forced to pay heavy fines before being allowed to return home. Measures have also reportedly been taken to remove influential Church representatives against their will. Religious services have also reportedly been interrupted by police officers from local Public Security Offices. Churches have been closed and in some cases demolished. Members of the congregations have had their houses, livestock and implements confiscated, as well as their Bibles and hymnals. They are also said to have been forced to attend political education classes.

As religion in China is still subordinated to the Party, any form of evangelism, proselytizing or training of preachers, including itinerant preachers (who are regarded as vagrants) is prohibited. The leaders of underground Protestant Churches should in theory be approved by the authorities and members of the Party, and the structure of their Church connected with an official Church. By preventing them from preaching outside the district allotted to them and insisting that religious personnel must be recruited from among professionals trained in Government offices, the authorities are attempting to nip in the bud any expansionary moves on the part of the underground Protestant Churches.

The Catholics in particular are said often to be suspected of opposing the activities of the Catholic Patriotic Association, ordaining priests and maintaining contact with the Vatican or with members of the clergy known to be linked with it. Furthermore, when they express their disagreement with official Party doctrine, particularly with regard to the practice of abortion, they are reportedly frequently arrested and sentenced to several years of forced labour.

The local authorities are said to be again taking control of the distribution of bibles and other forms of religious literature, which must receive their approval. No display of such works in shops is authorized. At Guangzhou, for example, in April 1992, some 3,000 bibles are said to have been seized by 30 security police officers in an apartment. The missionary concerned was reportedly interrogated for four hours before being released.

Theological teaching in Catholic seminaries is said to have been reduced and replaced by courses in Marxism, socialism, patriotism and prevailing religious policies. The duration of such teaching is said to have been reduced from five or six years to two years, ostensibly to alleviate the acute shortage of priests.

According to the information supplied to the Special Rapporteur, the practice of Buddhism, a religion practised by Tibetans since the seventh century A.D. and permeating all aspects of Tibetan culture and society, continues to encounter major obstacles.

Whereas, as recently as 1959, there were some 6,250 monasteries and temples housing more than 592,500 monks and nuns, the following years were reportedly marked by considerable destruction wrought particularly between 1955 and 1961 and, to a lesser extent, during the Cultural Revolution. According to some estimates, by 1976 only eight monasteries and convents remained intact. Statistics reportedly show that at least 100,000 monks, nuns, reincarnates and exponents of tantrism were tortured and in some cases executed during that period and that more than 250,000 monks were forced to give up monastic dress.

Since 1976, the Chinese authorities are said to have embarked on the reconstruction of a number of Tibetan monasteries and temples, but with a view to catering to the curiosity of tourists rather than permitting the Tibetan clergy to pursue their religious and teaching activities. For centuries, the main Tibetan monasteries had trained generations of novices and monks from various countries in the region through a process of education lasting from the age of 18 to the age of 45.

Today, great monasteries such as Sera, Drepung and Gaden, which used to house monastic communities of 5,000 to 10,000 individuals, are said to be authorized to take in only a few hundred monks each. The influence of the colleges depending on these monasteries is said to be suffering as a result, as is the standard of training and education that they are able to offer. Curricula must also make room for political education classes. The entry of novices, monks or nuns into monasteries and convents is reportedly limited to applicants with a background acceptable to the various authorities or State bodies closely associated with the administration of monasteries and convents, namely, the Office of Religious Affairs, the Tibetan Buddhist Association, the Public Security Bureau and labour inspection teams.

Serious concern is said to have been expressed regarding the difficulties encountered in teaching the Tibetan language and maintaining an adequate understanding of it, particularly with a view to its use in religious studies. In some areas of Tibet, the teaching of Tibetan has reportedly been made optional in schools, where classes are held only if there is a sufficient number of children of Tibetan origin, whereas the teaching of Chinese remains compulsory. The population of Chinese origin in Tibet is now estimated at some 7.5 million, compared with a Tibetan population of 6 million."

42. On 22 December 1993, the Permanent Mission of the People's Republic of China to the United Nations Office at Geneva transmitted to the Special Rapporteur the following information concerning the above allegations:

"Just as I informed you in my reply of 29 November 1993, the competent Chinese authorities have found it difficult to make full inquiries and produce complete and detailed replies to the charges by your requested date of 31 December 1993 owing to the exceptionally large number of matters and individuals your letter touches upon and the shortness of the deadline. In keeping with the Chinese Government's consistent spirit of cooperation with the United Nations human rights machinery, however, and on the basis of the requests you made during our conversation on 17 December 1993, I have been instructed, pending completion of the inquiries into the matters and individuals concerned, to furnish an initial response in principle to the first part of the charge sheet, 'General aspects of the problems of religious intolerance in China and Tibet', in the hope that this response will be amply reflected in your report to the Commission on Human Rights at its fiftieth session. You are also requested, pending receipt of the Chinese Government's responses to the other parts of the charge sheet, not to state in your report that the Chinese Government has not yet made inquiries or replied to the allegations.

The Chinese Government's initial response in principle to the first part of the charge sheet is as follows:

1. Freedom of religious belief is guaranteed under State law. The Chinese Constitution states that 'Citizens of the People's Republic of China enjoy freedom of religious belief. No State organ, public organization or individual may compel citizens to believe in, or not to believe in, any religion; nor may they discriminate against citizens who believe in, or do not believe in, any religion. The State protects normal religious activities.' General rule No. 77 of the civil law states that the lawful property of religious groups enjoys legal protection. The electoral law, military service law, compulsory education law and other legislation also contain clear and specific provisions on the protection of freedom of religious belief and on equal

rights for religious citizens. Government employees who unlawfully deprive citizens of their religious rights are liable to be investigated and held accountable under article 147 of the Penal Code.

2. It is also the Chinese Government's consistent policy to respect and protect its citizens' right to freedom of religious belief. Chinese citizens are free to believe in religion or not, and to choose to believe in any kind of religion. Within a religion, they are free to believe in any sect. Non-believers may become believers, and believers may at any time change their beliefs. Politically and legally, religious adherents and non-believers are equal and have the same rights and obligations.

3. Many forms of religion - Buddhism, Taoism, Islam, Catholicism, Protestantism and others - exist in China. Buddhism, Taoism and Islam are fairly widespread. There are no rigorous rites of initiation into Buddhism or Taoism, making the number of believers hard to estimate, but there are around 7 million adherents of Tibetan Buddhism and almost 1,200,000 adherents of Pali Buddhism among the ethnic minorities. Some ethnic minorities follow Islam; in all, they number over 17 million. According to figures from two years ago, the numbers of devotees of Catholicism and Protestantism throughout the country are 3.5 million and 4.5 million respectively. There are at present over 60,000 monasteries, temples, mosques, churches and other sites of religious activity. Buddhist, Taoist, Islamic, Catholic and Protestant clergy in 1992 together numbered around 210,000.

4. The Chinese Government includes a Department of Religious Work which is responsible for enforcement of the law and policy on freedom of religious belief, not for meddling in the religious activities of individual religious groups. During the Great Cultural Revolution (1966-1976), these laws and Government religious policy suffered. Since the Cultural Revolution, and in particular since the inception of reform and opening-up in 1979, the Chinese Government has done much and had conspicuous success in enforcing the law on freedom of religious belief and in reviving, perfecting and applying its policy on religious freedom and safeguarding citizens' rights to freedom of religious belief.

5. The following eight nationwide religious groups currently exist in China: the China Buddhist Association, the China Daoist Association, the China Islamic Association, the Chinese Patriotic Catholic Association, the National Administration Commission of the Chinese Catholic Church, the Chinese Catholic Bishops College, the Three-Self Patriotic Movement Committee of the Protestant Churches of China and the Christian Council. Besides these there are 164 provincial-level and over 2,000 county-level groups. All religious groups and citizens organize their religious activities and carry out their religious affairs independently under the protection of the Constitution and the law.

6. There are now 47 religious academies throughout the country, including the China Buddhist Academy, the China Academy for Islamic Classic Studies and the China Taoist Academy. Since 1980, over 2,000

young clergy have graduated from these academies. Each academy has also sent over 100 students abroad to a dozen different countries and regions around the world. The academies plan their own curricula on the basis of their own circumstances and characteristics; the Government does not intervene.

7. Since the thirteenth century A.D. Tibet has been an inseparable part of the territory of China. Today it forms one of China's autonomous regions. The accusations are wrong to put Tibet and China on the same footing.

As in other regions of China, the Chinese Government applies a policy of religious freedom in the Tibet Autonomous Region. The overwhelming majority of Tibetans are Tibetan Buddhists. Since the peaceful liberation of Tibet in 1951, every level of the Tibetan apparatus has conscientiously applied the laws and policies relating to freedom of religious belief, winning widespread acclaim from the masses of monks and priests. During the Cultural Revolution the policy of religious freedom suffered grievously in Tibet as in other parts of the country, and religious sites and facilities suffered serious losses. Since 1980, the Tibet Autonomous Region has successively reinstated and rebuilt its religious affairs apparatus, doing a great deal to safeguard citizens' right to freedom of religious belief. In the last 10 years or so the Chinese Central Government has allocated to the Tibet Autonomous Region over 200 million yuan for use in carrying out its religious policy and maintaining Jokhang monastery, Samye monastery, Zhaibung monastery, Sera monastery, Gandan monastery and Tashilhunpo monastery, and has allocated special funds for the maintenance of the Potala Palace. By 1992, Tibet had 1,425 monasteries, 34,000 lamas and nuns, and a Buddhist academy. The restoration of religious sites is to satisfy the faithful masses' need for normal religious activities, not to draw in the tourists. The people of Tibet are at complete liberty to develop normal religious activities under the protection of the Constitution, the law and Government policy.

The Chinese Central Government and the Government of the Tibet Autonomous Region attach the highest importance to the protection, perpetuation and development of traditional Tibetan culture. In 1987, the People's Congress of the Tibet Autonomous Region passed 'Certain provisions on the study, use and development of the Tibetan language'. These specified that equal emphasis was to be laid on Tibetan and Chinese in Tibet, with Tibetan being given priority. Laws and regulations, decrees and resolutions passed by the Tibetan people's congress, documents issued by the Government, announcements, newspapers, broadcasts and television programmes in Tibet now all use both Chinese and Tibetan. Books in Tibetan make up 70 per cent of all the books published. Tibetan is the main subject taught in schools of every category, at every level.

According to the 1990 fourth general census, the population of the Tibet Autonomous Region is 21,960,000, of whom 20,960,000, or 95.46 per cent, are ethnic Tibetans. Han Chinese and other nationalities together represent roughly 5 per cent.

8. Chinese citizens have a right to freedom of religious belief bestowed on them by the Constitution and the law, but they also bear responsibilities laid down in the Constitution and the law. The Chinese Constitution clearly stipulates that 'no one may make use of religion to engage in activities that disrupt public order, impair the health of citizens or interfere with the educational system of the State'. As the law requires, the Chinese Government will deal with all those who take advantage of religion to carry on illegal or criminal activities, whether they are adherents to a religion or unbelievers. Not one of those adherents who have been dealt with according to the law was arrested for believing in a religion.

9. Chinese religions operate under the guiding principles of independence, autonomy and self-management, and resist funding for or interference in China's internal religious affairs by any foreign forces in order to ensure that Chinese citizens do genuinely have a right to freedom of religious belief. Before the founding of the People's Republic of China in 1949, the Chinese Catholic and Protestant Churches were entirely dominated by foreign religious forces. Dozens of 'study groups' and 'missions' on Chinese soil divided up spheres of influence, establishing numerous 'states within a State'. At that time only 20 or so of the bishops in China's 143 Catholic dioceses were native Chinese and they had no rights: a sign of the former China's semi-feudal, semi-colonial social order. Since the founding of the new China, Chinese religious circles have shaken off the control of foreign religious groups and become autonomous, self-supporting and self-sufficient in doctrine, the Chinese people's own religious endeavour.

The Chinese Government actively supports the development of friendly exchanges between religious groups and figures within and outside the country subject to the maintenance of the principles of independence, autonomy and self-management and on the basis of complete equality and mutual respect. In recent years, Chinese religious associations have established and developed ties of friendship with religious circles in over 70 countries and regions around the world, have repeatedly sent representatives to international religious conferences and workshops, and have participated in several international religious organizations.

As can be seen from the above, the Chinese Government is fully in compliance with the Universal Declaration of Human Rights, the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief and the provisions relating to the protection of freedom of religious belief in other international human rights documents, and has honoured its obligations. It must not fail to be pointed out that the first part of the charge sheet lacks any basis in fact and is full of incorrect statements."

Cuba

43. In a communication dated 31 August 1993 addressed to the Government of Cuba, the Special Rapporteur transmitted the following information:

> "According to the information received, the Jehovah's Witnesses continue to be persecuted by the Cuban Government, despite some improvements made to article 54 of the Constitution, which regulates the activities of religious institutions. Since 1989, the homes of 300 Witnesses are reported to have been searched. It is alleged that Witnesses are frequently fined and sometimes imprisoned. In the month of March 1992 alone, 40 Jehovah's Witnesses are reported to have been arrested, 17 fined, while 14 of them had their homes searched.
>
> Several incidents deserve to be noted: in February 1992, near the town of Holguín, at Salida San Andres, a small group of people with some Jehovah's Witnesses were reading the Bible at the time when the police reportedly burst into their midst and confiscated their religious literature. Similar incidents are said to have occurred on 11 and 12 October respectively at Carrera Larga and at Calixto García, in northern Cuba, and to have led to the arrest of some 10 Witnesses in the first locality. After being fined (60.00 pesos), these persons were reportedly brought before the crowd, accused of belonging to a counter-revolutionary group and manhandled by uncontrolled elements in the crowd.
>
> Still more serious, on 25 October 1992 at Guantanamo, the house of Brother Adriano Sela H., where a meeting with some 20 Jehovah's Witnesses was being held, is said to have been invaded by demonstrators, some of them armed with electric cables and sticks. They are alleged to have beaten up the persons who were present. Some time afterwards, the police are reported to have arrived and to have arrested them, confiscating their identity cards, several diaries, recording machines, one typewriter, several Bibles as well as religious literature. The police are alleged to have interrogated Witnesses before releasing them. Although the equipment seized was subsequently returned to its owners, the fact remains that Jehovah's Witnesses are said to be regularly prevented from expressing themselves privately or in public, despite article 54 of the Constitution being relaxed. It is reported that the Cuban authorities have made no effort to improve the plight of the Jehovah's Witnesses since their activities were outlawed."

Egypt

44. In a communication dated 28 October 1993 addressed to the Government of Egypt, the Special Rapporteur transmitted the following information:

> "According to reports reaching the Special Rapporteur, the situation of some 7 million Christians in Egypt (the Copts) is continuing to worsen, despite the provisions of the Egyptian Constitution guaranteeing the equality of Egyptian citizens before the law without distinction as to sex, origin, language, religion or belief, as well as freedom of belief and worship (Constitution, arts. 40 and 46 respectively).
>
> At present the Copts are reported to be the subject of a defamatory campaign in the State-controlled mass media and to be referred to pejoratively in private or government publications. They are reported to

be finding it increasingly difficult to gain access to many different Islamic universities, institutions and schools built by the State throughout the country.

Furthermore, the confiscation of the lands and property of the Coptic Church for the benefit of the Ministry of Islamic Property is reported to be intensifying. The Coptic Church is thus being deprived of the essential resources needed to manage its religious schools and to assist disadvantaged members of the Coptic community. These difficulties are additional to the various obstacles which the Coptic Church encounters when it wishes to repair ancient buildings that have fallen into decay or have suffered from the increasingly frequent attacks by Muslim fundamentalists. Hundreds of applications for permission to build or repair churches are pending, some of them having been registered over 10 years ago.

The Copts, it is reported, are still being denied access to important government posts, whether in the administration, banking, the army, the security services or the diplomatic corps. They are also hampered in their academic careers in the universities. Their representation in Parliament, which in the 1940s amounted to 10 per cent of the Assembly, is now less than 1 per cent of its members. No Copt occupies any of the 26 posts of provincial governor in Egypt. The Copts are given television time only twice a year, in order to celebrate Christmas and Easter.

In addition, the security forces are reported to have intervened on several occasions to arrest Muslims recently converted to Christianity. Most of these persons are reported to have suffered maltreatment and torture. The authorities consider the conversion of a Muslim to another religion to be a violation of the Penal Code, one article of which prohibits the use of religion in order to sow division among religious communities, to offend against national unity or to denigrate Islam (art. 98 F).

For its part, the Religious University of Al-Azar is said to have adopted a more severe approach with regard to books on Islam or books relating to other religions. The winner of the Nobel Prize for Literature, Nagib Mahfous, had to have his latest work published in Beirut, since the University of Al-Azar had considered certain passages to be unfavourable to Islam.

Other writers are reported to have been persecuted on similar grounds. The Special Rapporteur has been informed of the case of Alaa Hamed, who in December 1991 was sentenced to eight years' imprisonment for blasphemy by the State Security Court Martial in Cairo, together with his publisher Mohammed Madbouli and his printer Fathi Fadl for having published, in April 1988, a work entitled 'A distance in the mind of a man'. This work narrated the story of a man dreaming that he was being taken to paradise. In the course of his journey he met several angels and prophets, with whom he discoursed on the reality of the message of the Prophet Mohammed and the existence of heaven and hell.

An Al-Azar literary committee is reported to have condemned Alaa Hamed's book which was subsequently confiscated. The author, the publisher and the printer, briefly detained in 1990, are reported to have been released on bail. Since then the three of them have been awaiting a decision by the Prime Minister to annul or confirm their sentence. Meanwhile, there has reportedly been an attempt to assassinate Alaa Hamed.

Mr. Farag Fouda, who was a writer and a journalist, is reported to have been killed by a man riding a motorcycle, on 8 June 1992, as Mr. Fouda was leaving his office in Cairo, with his son and a friend. The perpetrator of the crime, who is reported to be one Abdel-Shafi Ahmed Ramadan, subsequently arrested by the police, is said to be the leader of a Cairo cell representing the Jamaat e Islamiyya, a group of Muslim extremists determined to harry their opponents. Mr. Fouda had recently written an article accusing Muslim extremists of the murder of Christians and a Muslim in a village in May 1992. He was also known for his critical views on the Islamic State. On 7 January 1993, his works were reportedly banned, on orders from the Islamic Research Academy of the University of Al-Azar. At the trial, in June 1993, of four persons suspected of having taken part in Mr. Fouda's murder, a witness is reported to have stated before the court that anyone who killed an apostate should not be brought to trial."

45. On 21 December 1993, the Permanent Mission of the Arab Republic of Egypt to the United Nations Office at Geneva transmitted to the Special Rapporteur the following information concerning the above allegations:

"I. Constitutional and legal principles in force in Egypt and in accordance with Commission on Human Rights resolution 1993/25

1. Divinely revealed religions and beliefs have occupied a very important place in Egyptian civilization throughout Egypt's history. Accordingly, Egypt has always been a haven for the persecuted and its people has always been characterized by their tolerance, a quality which has become a general Egyptian personality trait. Regardless of their beliefs, the original inhabitants of Egypt and persons who emigrated to Egypt later came to form, after many years of intermixture, the Egyptian people which shares the same destiny, hopes and sufferings, together with customs and traditions which are now deeply rooted in its conscience. It is this cohesiveness that characterized the modern-day Egyptian national movement during the struggle for independence and freedom.

From this point of view, all the Constitutions adopted since 1923, including the 1971 Constitution now in force, have emphasized equality and non-discrimination and guaranteed freedom of belief. The 1971 Constitution provides, inter alia, that:

(a) All citizens are equal, without any discrimination on grounds of religion or belief (art. 40);

(b) The State guarantees freedom of belief and religious observance (art. 46);

(c) Any encroachment on personal liberty and collective freedoms, including freedom of belief, is a crime (art. 57);

(d) This crime is not subject to any statute of limitations under criminal or civil law (art. 57);

(e) The State guarantees compensation for the victims of any such encroachment (art. 57).

2. The Egyptian Penal Code also characterizes as a crime any act violating the above-mentioned principles and, in particular:

(a) Exploiting religion in order to promote extremist ideas by word of mouth, in writing or in any other manner with a view to sowing discord or disparaging divinely revealed religions or their adherents in order to disturb national unity and social harmony;

(b) Destroying, damaging or desecrating premises intended for the celebration of religious rites or emblems or other articles venerated by the members of a religious community or using violence or threats to disrupt or interrupt religious observances or profaning graves (Penal Code, art. 160);

(c) The printing or publication of scriptures that are revered by members of a religious community, whose rites are performed in public, in such a way as deliberately to distort their meaning and any mimicry of a religious celebration in a public place or gathering with the aim of ridiculing it (Penal Code, art. 161).

3. Since Egypt is one of the many countries that have recently had to deal with the worldwide phenomena of terrorism and extremism, the Egyptian lawmakers have had to amend the Penal Code. The new penalties established to deter potential terrorists have had an impact on the religious observances, freedoms and civil rights guaranteed by the Constitution and the laws. New articles have been brought into force which define terrorism as the use of force, violence or threats by a person or a group with a view to disturbing public order or endangering peace and security within society. Articles 86 and 86 bis thus relate to:

(a) Acts causing harm to persons, terrorizing them or endangering their lives, freedoms or security;

(b) Damage to the environment, the communications and telecommunications networks and public and private buildings and property, and their occupation by force;

(c) Preventing the public authorities, places of worship or educational institutions from carrying out their functions;

(d) Acts impeding the implementation of the Constitution and the laws and regulations;

(e) The establishment, foundation, organization or operation of an association, organization, group or gang which in any way aims to encroach on the personal freedoms and civil rights guaranteed by the Constitution and the laws or on national unity and social harmony, as well as membership of such bodies or propaganda on their behalf.

4. Under the provisions which the Egyptian lawmakers have adopted to ensure respect for religions and their teachings and on the basis of the principles embodied in the Constitution, disputes relating to personal status, including those involving inheritance and guardianship, are settled by the civil courts, in accordance with the canon laws of the various religions. Apart from that, none of the laws in force in Egypt contains provisions or clauses stating that religion or religious belief is the basis of the law.

II. The foregoing is the general framework in which the situations referred to in the observations on Egypt should be considered. If account is not taken of this general framework, these situations might be considered in the abstract, contrary to the principle of objectivity, thereby making dialogue difficult. Accordingly, the observations on Egypt may be classified as follows:

1. Education

(a) In accordance with the provisions of article 13, paragraph 2, of the International Covenant on Economic, Social and Cultural Rights, signed in 1967, and pursuant to articles 20 and 40 of the Egyptian Constitution, education in Egypt is a right guaranteed and protected by the State. At the lower levels, it is compulsory and free of charge in public schools for all Egyptians without distinction as to origin, religion or race. There are no establishments in Egypt which provide only religious instruction, except for those which teach the foundations and rules of religion and train preachers and clergymen, namely Al-Azar University for Muslims and the Ecclesiastical Institute for Orthodox Christians;

(b) The current sharp increase in the number of religious education institutes in all parts of the country is the logical consequence of population growth and reflects the interest in these institutes shown by adherents of the various religions. This phenomenon is not peculiar to a single religion. For example, seven branches of the Ecclesiastical Institute have been established in the provinces and there are also three specialized institutes - the Institute of the Holy Book, the Welfare Institute and the Africans' Institute. There are also Sunday catechism schools and facilities of theology in Cairo and Alexandria;

(c) Specialized Muslim and Christian religious institutions are thus attended only by those who practise one of these two religions, but this is because the nature and objectives of such institutions, namely, the training of preachers and clergymen, so require, as shown by the fact that scientific institutions, such as the Islamic Studies Institute, are open to everyone, like other educational establishments.

(d) Religious education is also provided in public schools, in accordance with the Constitution. Depending on their religion, students take courses on Islam or Christianity as basic subjects of the curriculum, in which they are required to pass examinations.

2. Endowments

The Coptic Religious Endowment Authority was set up under Act No. 264 of 1960 and is an independent body with legal personality. It is administered by a board which is presided over by the Coptic Orthodox Patriarch and is composed of a number of bishops appointed by the Patriarch. The Act entrusts the Authority with the power to supervise all endowment assets of the Coptic Orthodox Church, namely, land belonging to the Patriarchate, bishoprics, monasteries, churches, Orthodox educational institutions and related voluntary associations. The Authority is also empowered to appoint and dismiss the persons who manage such assets and its decisions are final. Act No. 80, adopted in 1971 and establishing the Egyptian Religious Endowment Authority, does not apply to the Coptic Authority, which has sole responsibility for managing and supervising its own endowments. Consequently, any dispute between the two Authorities is settled through legal and judicial procedures, as provided for by law.

3. Places of worship and religious buildings

(a) In accordance with the above-mentioned Acts, the State guarantees the integrity and protection of holy places of worship, emblems and articles. The penalties provided for in the event of an offence are more severe when terrorist acts are involved;

(b) Since 1991, 350 Coptic churches have been built, restored or expanded;

(c) Some Egyptian monuments which have become dilapidated or were damaged by the October 1992 earthquake also need to be restored. Their restoration is being carried out in the light of the country's economic priorities and within the limits of available resources, on the understanding that the monuments in question are all Egyptian and part of the common heritage;

(d) Egypt has recently launched a world campaign to raise the necessary funds for the protection of various Egyptian relics, whether Pharaonic, Greek, Christian or Muslim. Many States have responded favourably to Egypt's appeal and, with their agreement, all the necessary restoration work is now being carried out on the basis of modern scientific criteria. This will enable Egypt, which has one third of all the world's relics, to conserve its historical sites and fulfil its obligations under the Convention for the Protection of the World Cultural and Natural Heritage.

4. Civil service posts

(a) In accordance with the Constitution, the State guarantees equality of opportunity for all citizens (art. 8) and public office is a right of citizens (art. 14). All citizens are equal in respect of rights and duties, without distinction as to race, origin, language, religion or belief (art. 40).

(b) The requirement for recruitment to the civil service is the ability to serve the public, to fulfil one's obligations and to defend legitimate interests. The holders of high-level and directors' posts in State bodies, services and agencies are chosen for their abilities and diligence. Recruitment is based on the regulations in force (Act No. 5 of 1992) and candidates must pass the required examinations.

(c) Many Egyptian Christians hold important posts in various fields. They include senior officials in ministries, public works and universities.

(d) Egyptian Christians also represent their country in the diplomatic corps and hold posts in the judiciary, the armed forces and the police; they obtain these posts by means of difficult examinations which enable the best candidates to be selected. They include many leaders known for their ability and patriotism.

(e) This is proved by the fact that Egypt sponsored one of its Christian citizens as a candidate for the office of Secretary-General of the United Nations. The Government supported this candidacy by all available means. The current Secretary-General was for many years Minister and then Deputy Prime Minister responsible for foreign affairs.

(f) The members of the People's Assembly are elected by direct suffrage, in accordance with the Constitution; voters express their confidence in those whom they deem worthy of it. The law authorizes the President of the Republic to appoint a small number of deputies, the aim being to ensure that account is taken of the interests of underrepresented groups, such as women, whose representation in the Assembly does not reflect their numbers because of the realities of the social situation in Egypt.

(g) It should be noted in this connection that the Political Parties Act (No. 40 of 1977) prohibits the establishment of political parties along religious or racial lines, in accordance with the Constitution and international conventions.

5. Freedom of belief

As indicated above, the State guarantees all citizens freedom of belief and freedom of religious observance in accordance with the Constitution. Moreover, Egyptian laws do not prohibit conversion to another religion, but they do regard as crimes the exploitation of religion for purposes of sedition and the disparagement of divinely revealed religions. Apart from personal considerations, of course, a person's conversion has implications for the freedoms of others which raise questions relating to personal status (family, marriage, divorce). These implications vary according to the canon law of each religion, but the members of a faith are entitled to bring any dispute of this kind before the courts.

6. The media

(a) In accordance with article 19 of the International Covenant on Civil and Political Rights, to which Egypt has been a party since 1967, and in keeping with the provisions of the Constitution, freedom of opinion and freedom of expression, whether oral, written or in any other form are guaranteed. The Constitution also guarantees and protects freedom of scientific research and literary, artistic and cultural works, as well as press, printing and broadcasting freedom within the limits of the law. However, these freedoms are all governed by the regulations established by the State in accordance with the laws and the provisions of the Penal Code, which, in order to ensure respect for the holy nature of beliefs and preserve national unity, regard the disparagement of religions or those who practise them or the disruption of religious observance as a crime.

(b) In accordance with the amendment to the Constitution adopted in 1980, the press is regarded as a power enjoying rights and immunities that are essential for the performance of its monitoring and information function in the context of the democratic atmosphere prevailing in the country.

(c) Al-Azhar is a religious education institute which is not empowered to censor published works. It is, however, consulted about writings on Islam, the aim being to ensure that they are in keeping with the laws or, in other words, to see to it that they do not contain any attack on religion contrary to the law. It is for this purpose that judicial authorities request Al-Azhar's opinion. The Church plays the same role as far as Christianity is concerned.

(d) The Al-Azhar ulema and others do not have any special authority in this regard. Their role is to give advice and issue guidelines; they are therefore not authorized to make recommendations which are binding in nature. In this connection, the testimony of Sheik Mohammed Al-Ghazali in the case relating to the murder of Faraj Foda constitutes only a personal opinion and is binding only on him. It thus has to be seen in its proper perspective, since it is a reply to questions asked by defence counsel and does not entail any obligation on the court. In fact, the courts convicted the accused and referred the judgement to the Mufti of the Republic before the death sentence was made public. This shows that the court did not take account of the personal comments made by Sheikh Al-Ghazali in his testimony."

Spain

46. In a communication dated 11 October 1993, addressed to the Government of Spain, the Special Rapporteur transmitted the following information:

> "According to the information received, 'The Family', which has its origins in the former 'Children of God' movement, dissolved in 1978, is a New Religious Movement (NRM), established on six continents and based on the Bible and on faith in God. According to its beliefs, the modern-day world is in its last days before the establishment of a 'New World Order' under the godless rule of a Big Brother, whose reign will end only with the second coming of Jesus. The NRM's mission is said to be to practise the teachings of the Bible and to spread the gospel.
>
> The 'The Family' community reportedly lives off income collected from members receiving its spiritual guidance, each community being financially independent.
>
> This movement considers that it is being persecuted by so-called anti-cult associations, such as the Association for the Defence of Families and the Individual (ADFI) in France, the Cult Awareness Network (CAN) in the United States and 'Family Action Information Rescue' (FAIR) in the United Kingdom, which are allegedly trying to destroy 'The Family'.
>
> The Special Rapporteur has been informed that in the course of a raid in Barcelona in July 1990, police and social workers broke into a home belonging to 'The Family' after complaints had been lodged against the community by representatives of anti-cult associations. Twenty-two children were allegedly taken away and held in public welfare centres for over a year. During this period, the children were allegedly neglected or ill-treated by social workers. On their release, the Catalan authorities allegedly demanded that their parents send them to State schools and that each family belonging to the community undertake to reside in their own home.
>
> At the final hearing in the trial of members of 'The Family', on 21 May 1992, the judge acquitted the accused and ordered the children to be returned to their custody; he also drew attention to the deliberate victimization of the religious movement known as 'The Family' in the case. The judge's views were reported in the newspaper La Vanguardia, which described the action by the Catalan police as an error."

47. On 5 November 1993, the Government of the Kingdom of Spain sent its observations on the above communication, which had been transmitted to it by the Special Rapporteur:

> "On 11 October 1993, the Special Rapporteur of the Commission on Human Rights on the question of religious intolerance transmitted to the Government of the Kingdom of Spain, through its Ambassador and Permanent Representative at Geneva, observations concerning the information received relating to certain incidents that had occurred in 1990 in Barcelona involving certain members of the New Religious Movement (NRM) 'The Family', an offshoot of the dissolved 'Children of God' movement.
>
> The Government of the Kingdom of Spain has the honour to transmit to the Special Rapporteur, within the time-limit set (15 November) the following information:

I. RELIGIOUS FREEDOM IN SPAIN

"Religious freedom in Spain is clearly and categorically guaranteed:

1. Article 16 of the Spanish Constitution states:

> '1. Freedom of ideology, religion and worship of individuals and communities is guaranteed, with no other restrictions, regarding its expression, than those required for the maintenance of public order as protected by law.
>
> 2. No one may be compelled to declare his ideology, religion or beliefs.
>
> 3. There shall be no State religion. The public authorities shall take account of the religious beliefs of Spanish society and shall accordingly maintain relations of cooperation with the Catholic Church and other faiths.'

2. Organization Act (Ley Orgánica) No. 7/1980 of 5 July 1980 relating to religious freedom.

The text of this Act is contained in document No. 1, annexed hereto.

II. PROHIBITION OF DISCRIMINATION ON GROUNDS OF RELIGION OR BELIEF

The legal order of the Kingdom of Spain establishes equality before the law as a right and fundamental freedom.

Article 14 of the Spanish Constitution reads:

'Spaniards are equal before the law and may not be discriminated against in any manner on grounds of birth, race, sex, religion, opinion or any other condition or personal or social circumstance.'

As regards aliens, document No. 2, appended, contains the text of Organization Act No. 7/1985 of 1 July 1985 relating to the rights and freedoms of aliens in Spain, which develops article 13 of the Constitution.

Similarly, article 14 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, which has become an integral part of Spanish law in conformity with article 96.1 of the Constitution, stipulates: 'The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.'

Under article 10.2 of the Spanish Constitution, 'the standards relative to the fundamental rights and freedoms recognized by the

Constitution shall be interpreted in conformity with the Universal Declaration of Human Rights and the relevant international treaties and agreements ratified by Spain.'

In this connection, mention should also be made of the International Covenant on Civil and Political Rights - and in particular articles 18 and 26 thereof - which supplements the Universal Declaration of Human Rights.

It will be recalled that the Kingdom of Spain has acceded, by an instrument dated 17 January 1985, to the Optional Protocol to the above Covenant.

Clearly, the interpretation prescribed in article 10.2 of the Constitution must be made with reference to the Declaration on the Elimination of all Forms of Intolerance and of Discrimination Based on Religion or Belief, adopted by the United Nations General Assembly on 25 November 1981 (resolution 36/55).

III. THE NEW RELIGIOUS MOVEMENT (NRM) 'THE FAMILY'

The movement known as 'The Family', an offshoot of the former 'Children of God' movement, is known in Spain as the '_Niños de Dios_' ('The Children of God'), '_Familia Misionera_' ('The Missionary Family') '_Familias del Amor_' ('Families of Love').

This new religious movement (like the organization concerned, we shall use this term rather than other common terms such as 'sect', 'cult', '_jungendreligionen_' in German, etc.) has not applied for registration in the Kingdom of Spain as a church, faith or religious community and therefore has no legal status as a religious entity. This is confirmed by the enclosed attestation from the Ministry of Justice (document No. 3).

Nor has it been established that this NRM has officially set itself up as an association under the freedom of association guaranteed by article 22 of the Spanish Constitution.

It may therefore be asserted that:

First, it is not possible to refer to the activities of the new religious movement 'The Family' as such because, from the legal standpoint, it does not officially exist as a group, association, faith, church or religious community.

Secondly, the only question that arises is whether the members of this particular NRM have suffered discriminatory treatment in the Kingdom of Spain on grounds of religion or belief.

IV. THE INFORMATION RECEIVED

1. 'The NRM considers that it is being persecuted by so-called anti-cult associations, such as the Association for the Defence of Families and the Individual (ADFI) in France, the Cult Awareness Network (CAN) in the United States and Family Action Information Rescue (FAIR) in the United Kingdom, which are allegedly trying to destroy "The Family".'

This information does not concern the Kingdom of Spain as it contains no observation regarding Spain.

2. *The events in Barcelona*:

(a) *Initiation of proceedings*

The government procurator for juveniles (*Fiscal de Menores*) of the High Court of Justice of Catalonia (*Tribunal superior de justicia*) instructed the Catalan police to begin an investigation of the situation of the children belonging to the group in question and to ascertain whether they were in need of care (document No. 4).

This decision by the procurator was based on articles 2 and 3 of the Statute (*Estatuto Organico*) of the Public Prosecutor's Department (*Ministerio Fiscal*):

'*Article 2*:

1. The Public Prosecutor's Department, which enjoys functional autonomy and forms an integral part of the judiciary, shall perform its functions through its own organs in accordance with the principles of procedural unity and hierarchical order and shall in all circumstances observe the principles of legality and impartiality.

2. The designation "Public Prosecutor's Department" shall be reserved for its exclusive use.

CHAPTER II. *Responsibilities of the Public Prosecutor's Department*

Article 3: In order to discharge the functions defined in article 1, the Public Prosecutor's Department shall:

1. Ensure that its jurisdictional function is performed effectively in accordance with the law, within the time-limits set and under the conditions determined by law, initiating, where necessary, the relevant actions, remedies and procedures;

2. Perform every function incumbent upon it under the law in order to safeguard the independence of judges and the courts;

3. Ensure respect for the constitutional institutions, fundamental rights and public freedoms by means of any procedural act that may be required for their defence;

4. Exercise the public right of action and criminal indemnity action in connection with crimes and misdemeanours or oppose actions initiated by others, where appropriate;

5. Participate in criminal proceedings by urging the courts to adopt the necessary preservation measures and to take steps to elucidate the facts; in this respect, it may order the criminal investigation department to take any other action it deems appropriate;

6. Participate in proceedings relating to civil status and in other proceedings provided for by law in order to uphold legality and the public or social interest;

7. Take responsibility for - or, where necessary, promote - the representation and defence, before the courts and elsewhere, of those who, through inability to act or through lack of legal representation, are unable to act alone; encourage the establishment of the custodial agencies provided for by civil law; and sit as a member on any other custodial agencies whose aim is to protect and defend minors and the underprivileged;

8. Preserve the jurisdictional integrity and competence of judges and courts by settling questions relating to conflicts of jurisdiction and, where appropriate, the relevant questions of competence, and intercede in cases which other authorities are called upon to settle;

9. Ensure compliance with judicial decisions concerning the public and social interest;

10. Present a constitutional remedy of amparo in the cases and in accordance with the procedures provided for in the Constitutional Court Organization Act (No. 13,575);

11. Intercede in proceedings heard by the Constitutional Court in order to uphold legality, in accordance with the procedures provided for by law;

12. Intercede in judicial amparo proceedings;

13. Also uphold legality in administrative litigation proceedings in which its intercession is required;

14. Arrange or, where necessary, furnish international judicial assistance as provided for by law and international treaties and conventions;

15. Perform such other functions as are vested in it by the legal system.'

(b) 'In the course of a raid, the police and social workers allegedly broke into a home belonging to "The Family"'.

The Kingdom of Spain is a State subject to the rule of law and the inviolability of the home is guaranteed and protected by law pursuant to article 18.2 of the Constitution, which reads: 'The home is inviolable. No entry or search may be made without the consent of the occupant or a legal warrant, except in the case of flagrante delicto'.

For this reason, at the request of the police and by substantiated decisions of the courts, on 7 and 8 July 1990 the competent courts authorized the police to enter two homes and to search them (documents Nos. 5 and 6).

Since the main purpose of the operation was precisely to protect the minors present from alleged unlawful activities, the presence of social workers was considered perfectly in order.

(c) 'Twenty-two children were allegedly taken away and held in public welfare centres for over a year'.

The police of the Kingdom of Spain are not holding minors in any centre.

It is the judicial authorities who, in the light of the circumstances in which they were living, ordered the minors to be admitted to the reception centre operated by the Child Welfare Department of the Generalitat of Catalonia (document No. 7).

The head of the section responsible for the centres operated by the Department recorded the admission of the minors as being 'by judicial decision'. The record states that 'the child named Jordi was returned to his mother after having received proper care as that course was considered preferable for his feeding' (document No. 8).

At no time were the children detained, left uncared for or ill-treated.

During their stay in the reception and welfare centre, the children were again able to receive approved schooling and were provided with social, psychological and medical care, of which they had previously been deprived.

On 24 January 1991, judge No. 19 of first instance in Barcelona issued a substantiated order under which the children were kept in temporary placement, and took the necessary measures to that end (document No. 9).

All the foregoing is in conformity with articles 55 and 56 of Act No. 11/85 of 13 June 1985 relating to the protection of minors, and with articles 90 and 91 of Decree No. 162/86 of 9 May 1986, issued by the Generalitat of Catalonia (documents Nos. 10 and 11).

As the court (Juzgado) dismissed the disputed declaration of need of care, an appeal was lodged with the Barcelona Provincial Court (Audiencia Provincial), which, in a substantiated decision, granted the appeal and declared null and void the measures taken by the Juzgado (document No. 12).

As to the requirement that the children be enrolled in school, this derives from the right to education and, in particular, the right to compulsory and free basic education proclaimed and guaranteed by article 27 of the Constitution.

'1. Everyone is entitled to education. Freedom of instruction is recognized.

2. Education shall have as its purpose the full development of the human personality in respect for the democratic principles of coexistence and the fundamental rights and freedoms.

3. The public authorities guarantee the right of parents to ensure that their children receive religious and moral instruction compatible with their own beliefs.

4. Basic education shall be compulsory and free of charge.

5. The public authorities guarantee the right of everyone to education by means of general educational programming, with the effective participation of all the sectors concerned and the setting-up of teaching establishments.

6. The freedom of individuals and legal entities to set up teaching establishments is recognized, with respect for the principles of the Constitution.

7. Teachers, parents and, where appropriate, pupils shall participate in the supervision and management of all establishments supported by the Government with public funds, in the conditions determined by law.

8. The public authorities shall inspect and approve the education system in order to guarantee observance of the law.

9. The public authorities shall assist teaching establishments that meet the conditions laid down by law.

10. The autonomy of universities is recognized, in the conditions determined by law.'

(d) Pronouncement of the decision

On 29 June 1993, the Barcelona Provisional Court, in a lengthy and substantiated decision, acquitted the accused of the offences with which they had been charged (unlawful association, setting-up of an unlawful teaching establishment, psychological injury and fraud), and declared null and void the preservation measures adopted (document No. 13).

V. CONCLUSION

It is apparent from the foregoing that:

(a) In accordance with its duty to protect minors in need of care, the Public Prosecutor's Department ordered an inquiry to determine whether certain minors were, in fact, in such a situation;

(b) On the basis of the results of the inquiry, the court authorized access to and the search of the home of the persons concerned;

(c) The competent judicial authorities provisionally declared that the minors were in need of care and took appropriate measures, in the minors' interest;

(d) Following an appeal, the higher court decided to annul the declaration and the measures;

(e) The Public Prosecutor's Department, whose role is to ensure the rule of law, considered it appropriate officially to charge various persons with a number of offences;

(f) The competent court handed down a lengthy and substantiated judgement in which it acquitted the accused.

It follows from all the foregoing that:

First, Spain has in no way failed to fulfil its obligation to respect religious freedom, as proclaimed in article 18 of the Universal Declaration of Human Rights and in other provisions referred to above, since the NRM 'The Family' has not asked to be regarded as a church, a faith or a religious community;

Secondly, no discrimination has been practised in the Kingdom of Spain on grounds of religion or belief against accused persons during the proceedings before the Barcelona Provincial Court;

Thirdly, the events which occurred were a reflection of the duty to protect minors which the Public Prosecutor's Department and certain judicial authorities deemed it necessary to perform as a result of the conduct of the accused in instituting the relevant proceedings, which offered all exigible guarantees;

The proceedings ended with the acquittal decided on by the Barcelona Provincial Court, a decision against which the Public Prosecutor's Department may appeal to the Supreme Court.

No one has discriminated against the accused on grounds of their religious ideas and beliefs. However, the non-enrolment of the children in school explains the legitimate concern of the Public Prosecutor's Department, which ensures the rule of law, and the institution of appropriate proceedings to determine whether the activities of the accused were criminal in nature. In its judgement, the court dealt at length with the question and decided to acquit the accused.

As the court clearly states, it does not and cannot judge 'beliefs', except in cases where the closed, dogmatic and disciplined communities to which they give rise are harmful in character.

The right and fundamental freedom relating to equality and the absolute prohibition of any discrimination on grounds of religious ideas or beliefs have been respected in the Kingdom of Spain."

Ethiopia

48. In a communication dated 19 October 1992, addressed to the Government of Ethiopia, the Special Rapporteur transmitted the following information (E/CN.4/1993/62, para. 29):

> "According to the information received, Amhara Ethiopian citizens who belong to the Orthodox Christian faith have been subjected to persecution in the Arba Gugu region involving numerous cases of summary executions. The victims are said to have included children, the elderly as well as pregnant women and their bodies were allegedly burnt or thrown into ravines. According to the sources, one of the instigators of the persecution of Amharas is Mr. Dima Gurmesa, the District Representative of the Oromo People's Democratic Organization (OPDO). It has been alleged that although these human rights violations have been reported to the Minister for Internal Affairs both orally and in writing, the Transitional Government is said not to have taken any action in this regard to date. The following specific incidents were brought to the attention of the Special Rapporteur:
>
> On 4 June 1992, 50 women, children and elderly persons from the village of Abule are reported to have sought refuge in the church courtyard when the village was attacked by the OPDO armed forces. They are said to have been surrounded and their throats slit individually by a special group of Oromo nomads. The church was reported to have subsequently been burned, together with the priests, and the entire Abule village was allegedly razed to the ground. In the neighbouring Ashe village which is also populated by Christians, men are said to have been castrated and slaughtered, while unborn babies were taken from mothers who had been slain. Similar human rights violations are said to have been perpetrated also on 4 June in the villages of Abomsa, Abesa, Serbio Addis Alem, Wakentra, Messo and Endele Beyu.
>
> The Special Rapporteur has been informed that the following churches in Arba Gugu District were burned together with the ancient manuscripts and relics they contained:
>
> Guna District
>
> - St. George of Andrea
> - St. Gabriel of Teram
> - St. Gabriel of Meso

Jeju District

- St. George of Abuli
- Egziharab of Abesa
- Medhane Alem of Abshire

Priests from the churches cited above who have managed to escape the attacks against Christians reported that they were carried out by well organized forces.

The attention of the Special Rapporteur has also been drawn to the disappearance of the following ecclesiastical dignitaries:

- Abuna Markorios, Patriarch of the Ethiopian Orthodox Church
- Abuna Markos, Deputy Patriarch of the Ethiopian Orthodox Church

Both clergymen, who resided at the Patriarchal Palace in Addis Ababa, are said to have been discharged from their religious duties by the Government on 12 July 1992. Although it has been alleged that the Patriarch subsequently went to a monastery at Lake Tana, efforts by members of the church to locate both dignitaries were reportedly unsuccessful."

49. On 7 April 1993, the Ministry of the Interior of the Transitional Government of Ethiopia transmitted to the Special Rapporteur the following information concerning the above allegations:

"(1) The former Patriarch of the Ethiopian Orthodox Church, Abune Markarios, was seen driving south of the country and defected to Kenya, leaving behind his car at Moyale (a small town adjacent to Kenya).

(2) Likewise, the former Deputy Patriarch of the Ethiopian Orthodox Church, Abune Markos, also defected to Kenya in the manner described above.

I would be grateful therefore if you could kindly include the aforesaid information in the report to be submitted to Commission on Human Rights."

50. The Special Rapporteur, while thanking the Government of Ethiopia for the information it has transmitted, would like to receive its views and observations on the remaining allegations contained in the communication of 19 October 1992 so that an overall opinion may be formed and so that the recommendations and conclusions may take account of all the elements contained in the allegations.

France

51. In a communication dated 30 September 1993, addressed to the Government of France, the Special Rapporteur transmitted the following information:

> "According to the information received, 'The Family', which has its origins in the 'Children of God' movement, dissolved in 1978, is a New Religious Movement (NRM) established on six continents and based on the Bible and on faith in God. According to its beliefs, the modern-day world is in its last days before the establishment of a 'New World Order', under the godless rule of a Big Brother, whose reign will end only with the second coming of Jesus. The NRM's mission is said to be to practise the teachings of the Bible and to spread the gospel.
>
> The 'The Family' community reportedly lives off income collected from members receiving its spiritual guidance, each community being financially independent.
>
> This religious movement considers that it is being persecuted by so-called anti-cult associations, such as the Association for the Defence of Families and the Individual (ADFI) in France, the Cult Awareness Network (CAN) in the United States and Family Action Information Rescue (FAIR) in the United Kingdom, which are allegedly trying to destroy 'The Family'.
>
> The Special Rapporteur has been informed that, in France, some 200 heavily armed gendarmes in combat dress took part in several raids against various communities of 'The Family', particularly in Lyon and Aix-en-Provence, at dawn on 9 June 1993, and made many arrests.
>
> The following persons were reportedly involved in these incidents in Condrieu (Lyon): Mr. Vincent Coppola, Miss Magdaléna Coppola, Miss Amor Coppola, Mrs. Maria Leclerc, Mr. Richard Leclerc, Mr. David De Brocke, Mrs. Denise De Brocke Michaud, and Mr. and Mrs. William MacNiel. Mr. J.M. de la Presa Mayol, Mrs. Beverley Ann Pothiers de la Presa, Mr. Christian Zambrelli, Mr. Christian Milon, Mrs. Julie Milon, Mrs. Monique Groenevegen, Mrs. Monique Verger, Mr. Christophe Verger, Mr. Emilio Pequera Guanis, Mrs. Deborah Gough and Mrs. Béatrice Dubocquet were reportedly arrested in Eguilles (Aix-en-Provence).
>
> The testimony taken refers to police violence and lack of respect for the adult members of 'The Family', most of whom were arrested without a warrant and with the use of force. They were allegedly held in police custody for 48 hours and interrogated. Some of them then spent three days in prison waiting to be charged, but were finally released for lack of evidence.
>
> The 90 or so children who were allegedly involved in these incidents and who ranged in age from a few months to 18 years were kept apart from the adults and taken away by the police without their parents' consent. They were then placed in institutions belonging to the Health and Social Welfare Department and denied any contact with their parents. Although the children from the Lyon region were returned to their parents

> after one week, those from Aix-en-Provence are reportedly still being held. During their detention, some of the children reportedly underwent medical and psychiatric examinations to determine to what extent they had been ill-treated or sexually abused by members of 'The Family'. In none of the cases considered, however, could the accusations against the members of 'The Family' be proven.
>
> The Special Rapporteur has also been informed that other arrests of members of the Christian Bible Church, which is Protestant and was affiliated for some time in the past to the French branch of the Baptist Church, were carried out on 10 February 1993 at various places in France.
>
> The persons said to be concerned are the following: David and Esther Antoine and their children in Dissay (Loire Valley); Michel and Sylvie Bahjejian and their child, Nathanael; Michelle Dick; and Georges and Delia Mihaies and their children Bianca, Flavins and Octavius, all living in Prévessin (eastern France).
>
> Most of the adults and young persons aged over 18 were released after questioning, but the children were questioned by the police for at least 10 hours and then placed in rehabilitation centres without any possibility of contacting their parents. Despite their efforts, the parents have not yet been able to see their children, who are still being detained, and have not received any assurances that their letters and parcels have reached their destination.
>
> According to certain reports, the Government's action against the above-mentioned persons was taken as a result of pressure by disillusioned former members of the Christian Bible Church and members of the Association for the Defence of Families and the Individual (ADFI). The reports state that ADFI is a powerful organization with 'deprogramming' units working to convert persons belonging to other religions or sects. In March 1992, ADFI reportedly published a 400-page work by Bernard Fillaire entitled 'Le Grand Décervelage. Enquête pour combattre les sectes', which contains a list of some 200 such organizations, including the Assemblies of God, the International Society of Businessmen for the Gospel, Opus Dei and other Catholic groups, the T.L. Osborn Foundation, the Church of Scientology and the Unification Church."

52. On 8 December 1993, the Government of France sent its observations, on the above communication transmitted to it by the Special Rapporteur:

> "The Government of France wishes to draw your attention to the following information and comments on the allegations transmitted to it in connection with two 1993 court cases involving the religious movements 'The Family' and 'The Christian Bible Church'.
>
> It regrets that the information was communicated to you erroneously and in a biased manner and requests that the document annexed to your letter should not be circulated as a United Nations document. Otherwise, the allegations made by the movements which have approached the United Nations should be subjected to closer scrutiny.

1. In the case relating to the association known as 'The Family', the text implies that the gendarmerie acted contrary to legal procedures ('without a warrant'). This is entirely inaccurate.

In fact, the arrests of which the association known as 'The Family' complains took place following investigations relating to incitement of minors to immoral behaviour conducted within the jurisdiction of the courts of appeal of Aix-en-Provence, Lyon, Metz, Paris and Reims. Rogatory commissions were entrusted to the gendarmes by the examining magistrates and the operations all took place under the supervision of these magistrates. It is thus wrong to say that the gendarmes acted contrary to proper procedures, and biased to refer to 'raids' by 'heavily armed gendarmes in combat dress'.

With regard to the conditions in which these operations took place and, in particular, the duration of police custody, it should be made clear that French procedure provided that a person might be held for up to 48 hours in police custody before being brought before the judicial authority. Consequently, the fact that police custody lasted 48 hours does not constitute a cause for complaint, and neither does the fact that the order to separate the children from their parents was carried out, since their placement during the investigations was the result of a court decision. It is, on the other hand, incorrect to say that some persons continued to be held in detention after the period of police custody and without a court decision.

With regard to the allegations of police brutality, the medical examinations ordered by the magistrates did not show that there had been any ill-treatment.

It must also be stressed that the use of the word 'detention' with regard to children is improper; it is a prison term which is out of place in this context. Although, at one point in the proceedings, the children were placed in institutions by the juvenile court judge under a procedure designed to protect them, they were never detained.

In any event, the current situation may be described as follows: investigations are still pending and rogatory commissions whose content is confidential are still under way. Several members of the association have been placed under judicial supervision, but all have now been released. The children whose placement was ordered by the juvenile courts have all been returned to their parents.

2. The arrests on 10 February 1993 of members of the Christian Bible Church were made on the basis of a rogatory commission. The persons arrested were all released by 12 March at the latest. The minor children were placed in social welfare institutions. According to the French Protestant Federation, 'the problems which the persons in this group may have had with the courts involve ordinary law, and certainly not religious persecution' (statement dated 29 July 1993).

The Government of France can only encourage the Special Rapporteur to contact the associations which instituted the judicial proceedings and are accused by 'The Family' of 'persecuting' it."

Greece

53. In a communication dated 9 October 1992, addressed to the Government of Greece (E/CN.4/1993/62, para. 32), the Special Rapporteur transmitted the following information:

"It has been reported that members of the Jehovah's Witnesses faith have continued to be imprisoned for refusing conscription. The following cases were brought to the attention of the Special Rapporteur and summarized as follows:

Mr. Anastasios (Tasos) Georgiadis, a religious minister whose appointment had been confirmed by the Prefectures of Larissa and Karditsa, saw his application for exemption from military service for religious reasons rejected on 17 September 1991. The Serres Recruiting Office argued that the Holy Synod of the Greek Church had informed them that the Jehovah's Witnesses faith was not a recognized religion because its practice contravened two articles of the Greek Constitution: article 13.1, which prohibits religious rites offending public order or moral principles and proselytism; and article 4.5, which requires every able-bodied Greek citizen to contribute to the defence of the Fatherland. On 20 January 1992, Mr. Georgiadis was detained at Nafplion Military Camp after he had refused to put on a military uniform and on 29 January, he was transferred to Avlona Military Prison. On 17 March, the Athens Military Court recognized him as a religious minister of a known religion and pronounced a sentence of acquittal. He was released the following day. Nevertheless, despite this ruling, the Recruiting Section of the General Headquarters for National Defence is reported to have persistently refused to recognize Mr. Georgiadis's status as religious minister and he was imprisoned for the second time on 4 April at Nafplion Military Camp. On 8 May 1992, the Athens Military Court acquitted Mr. Georgiadis for the second time and ordered his release, ruling at the same time that it was up to the Recruitment Office to decide whether or not to issue discharge papers. The Recruitment Office once again refused to do so and Mr. Georgiadis was imprisoned for the third time on 22 May. His case was examined by the Council of State on 16 June but no decision has been taken so far and no date has been set for his trial. Mr. Georgiadis is the fourth Jehovah's Witnesses minister whose application for exemption from military service was rejected by the military authorities since Law 1763/1988 came into force and despite the three decisions issued by the Council of State emphasizing that the Jehovah's Witnesses faith was a recognized religion and asking for the immediate release of three ministers: decision 3601/90 concerning the release of Mr. Daniel Kokkalis; decision 1354/91 concerning the release of Mr. Timothy Kouloubas; and decision 1355/91 concerning the release of Mr. Dimitrios Tsirlis.

According to the information received, 415 conscientious objectors who belong to the Jehovah's Witnesses faith are currently imprisoned in

Greece. They have reportedly been sentenced to terms of imprisonment of four years which they would be able to reduce to approximately three years through work. It has also been reported that Jehovah's Witnesses who are detained in military prisons continue to be denied visits by their religious leaders, in contrast to prisoners belonging to the Greek Orthodox faith.

The following cases concerning the sentencing of Jehovah's Witnesses on charges of proselytism were also brought to the attention of the Special Rapporteur:

On 29 March 1989, the Court of Florina reportedly sentenced four women belonging to the Jehovah's Witnesses faith to five months' imprisonment, a fine of 500,000 drachmas and a six months' police surveillance on grounds that they were 'guilty of the act of proselytism on members of another faith in favour of their religion'. The prison sentence was subsequently commuted. The four women are: Alexandra Despoti, a 30-year-old housewife, Eleni Didaskalou, a 23-year-old seamstress, Eugenia Theodoridou, a 21-year-old worker, and Elena Batodaki, a 22-year-old worker. The four women were reportedly going from house to house in Florina on 26 July 1988 selling Watchtower and Awake magazines and exchanging ideas about their beliefs with the inhabitants of the town. A complaint against them was allegedly filed by an Orthodox priest, Mr. Evripides Taskas (63). On 27 November 1991, the Tessalonica Court of Appeal was to issue its final verdict concerning the defendants, but the trial was reportedly postponed because of a strike by the judicial staff.

According to the information received, on 15 November 1992, the European Court of Human Rights in Strasbourg was scheduled to hear an appeal made by Mr. Minos Kokkinakis, a retired businessman in his eighties who belongs to the Jehovah's Witnesses faith. On 2 March 1986, he and his wife were arrested when the police found them reading passages of the Bible and talking about pacifism in biblical terms with their friends. Mr. Kokkinakis' appeal concerned the 10,000 drachmas fine and the prison sentence of four months which were imposed on him by the Magistrates Court of Lasithi on charges of proselytism. Mr. Kokkinakis has already served seven prison terms over the past 50 years and has spent four periods in exile away from his home in Crete. He served the longest of the sentences, 18 months, in the 1940s for conscientious objection to military service, while the remaining sentences were for proselytism.

The case of the Jehovah's Witnesses congregation of Gazi, in Heraklion (Crete), was reported in the following terms: in 1983, the congregation had asked for a permit to convert a leased property into a place of prayer and worship. In the three-year contract which was drawn between the owner and the tenants, it was clearly stated that the property would be used for religious purposes. The local office of the Orthodox Church was informed about the contract and the priest had lodged a complaint against the tenants, Titos Manousakis, Konstantinos Makridakis, Kyriakos Baxevanis and Vasilios Hatzakis, for failing to obtain a permit which is issued by the local Orthodox Church authorities and by the Ministry of National Education and Cults. The defendants were acquitted by the First Instance Court and, after an appeal by the Prosecutor, by the Magistrates Court. They therefore resumed using their place of prayer and worship and placed a sign at the entrance indicating its religious identity. However, the local Orthodox priest alleged that the posting of this sign amounted to proselytism. Following a second appeal lodged by the Public Prosecutor of the Magistrates Court, the defendants were sentenced on 15 February 1990 to a three-months' prison term and a fine of 30,000 drachmas. On 19 March 1991, the Supreme Court (Areopagos) denied the petition for cassation which had been lodged by Mr. Manousakis and sentenced the defendants to the payment of the 18,000 drachmas court expenses.

With regard to a case already referred to in his previous report (E/CN.4/1992/52), the Special Rapporteur was informed that the Alexandroupolis Magistrates Court had acquitted the leaders of the Jehovah's Witnesses congregation who were charged with the illegal use of the house of prayer and ordered the seals to be removed from this site on 2 July 1991. The house of prayer of the Jehovah's Witnesses congregation in Alexandroupolis had been closed and sealed in 1990 because they had failed to secure an operating permit which is issued by the Ministry of Education and Cults. The Public Prosecutor who had initiated the proceedings appealed the decision before the seals were removed. The Orthodox bishop is reported to have exercised significant pressure on the local authorities in order to dissuade them from formally recognizing the Jehovah's Witnesses place of worship.

It has been alleged that from 1963 to 1991, 2,172 Jehovah's Witnesses were arrested on grounds of proselytism. In 1991, 211 persons were arrested, 28 cases were brought to court and 8 cases were postponed. There were three cases of acquittal and one case of conviction which concerned several persons.

According to additional information received, four Evangelist army officers are said to be facing four-year prison terms for proselytizing which were handed down by a military court in Volos, in central Greece.

It has also been alleged that the existing laws on education make difficult the appointment of non-Orthodox teachers in Greece, in whatever type of school. In particular, the following cases of several persons belonging to the Jehovah's Witnesses faith who were being denied teaching permits were reported to the Special Rapporteur:

In October 1991, Ms. Valiki Pilaftsoglou had asked for a permit to teach French and biology at a private tuition centre. She was asked to fill in a form in which she was required to state her religion and started to work before obtaining the permit. Meanwhile, the local education authorities had asked the Minister of Education and Cults if they may deliver a teaching permit to a teacher who did not belong to the Orthodox faith. The case was still pending several months later.

Mr. Theofilos Tzenos, an English teacher, had applied for a job in a private tuition centre but was refused a teaching permit by the Ministry of Education and Cults because he was not of the Orthodox faith.

In September 1991, Mrs. Anastasia Nomidis received her English Language Proficiency Certificate issued by the University of Michigan. She asked for and obtained the 'Certificate of Qualification to Teach', which is delivered by the Ministry of Education. She subsequently filled in two application forms in order to obtain a permit to teach and establish a tuition centre. Several months later, the Ministry answered verbally that they would not issue her a teaching permit on religious grounds. However, according to the information received, non-Orthodox teachers had been allowed to teach in public schools in the 1980s although they faced difficulties at times.

On 20 May 1992, it was reported that five monks from the Church Abroad, Brother Oleg Shvetzoff, Father Mitrophan, Monk Nicholas Shevelckinsky, Hieromonk Ioannikios Abernethy and Archimandrite Seraphim Bobich, the Abbot of the Saint Elias Skete Monastery on Mount Athos, were forcibly evicted from their dwellings. It has been alleged that Bishop Athanasios, a representative of the Ecumenical Patriarch, had come to the Saint Elias Skete Monastery together with representatives of the Pantocratos Monastery and armed Greek police who forced the monks at gun-point to leave the Saint Elias Monastery at once. No documents signed by any authority were presented to justify the eviction. The Greek authorities are alleged to have confiscated the monks' passports (all of whom are American citizens) and their Greek identification cards and had allegedly threatened to place them under arrest. On 25 May, Father Ioannikios is said to have called the Civil Governor of Tessaloniki, Mr. Constantine Papoulidis, who told him that he had no responsibility and no authority in the matter and that Father Ioannikios should write a petition to the monastic government, the Sacred Community of Athos."

54. On 12 February 1993, the Permanent Mission of Greece to the United Nations Office at Geneva transmitted the following information to the Special Rapporteur with regard to the above allegations:

"I would highly appreciate it if you had the following reply and comments transmitted to Mr. Ribeiro:

- Mr. Anastassios GEORGIADIS case.

Mr. A. Georgiadis was released from prison on 27 July 1992. Four days later he was discharged from the Armed Forces, in implementation of decision 2484/92 of the Council of State, whereby this Court upheld the petition of annulment launched by him against acts of the Administration which had rejected his petition for exemption from the obligation to serve on the ground that he was a religious minister of the Jehovah Witnesses.

- The Florina, Heraklion and Lassithi cases.

(a) In the cases of Florina and Heraklion, proceedings were instituted by the State Attorney, following complaints made by two priests.

(b) In the case of Lassithi, the prosecution started after a complaint was lodged.

(c) Appeals have been deposited against the first two condemnatory decisions. There is no evidence for an appeal against the third one.

(d) All these cases are related to individual's rights to oppose, by legal means, repressive action of their fellow-citizens directed against their religious conscience.

- Information concerning other cases (such as the Mount of Athos) will be communicated in due course."

India

55. In a communication dated 10 November 1993, addressed to the Indian Government, the Special Rapporteur transmitted the following information:

> "According to information received, the attack on the Babri Mosque in Ayodhya and its destruction, on 6 December 1992, by thousands of Hindus resulted in the deaths of several hundred Muslim demonstrators near the mosque and the looting of 200 houses occupied by Muslims. The Muslims were reportedly fired on by the soldiers attempting to disperse them. These events are said to have had wide repercussions in several parts of the country and to have provoked serious clashes between the Hindu and Muslim communities in which more than 1,200 people died or were killed by the police. Most of the victims were apparently from the Muslim community. In Bombay, where at least 200 people died, according to witnesses, the police allegedly intervened on the side of the Hindus and fired on the Muslim demonstrators.
>
> The Babri Mosque, a site charged with history and venerated by India's Muslims for centuries, has for 50 years reportedly been the subject of protracted legal proceedings aimed at disentangling the respective claims on it by Muslims and Hindus. The latter apparently intend to build a temple on the site, the presumed birthplace of the Hindu god Ram, despite a recent Supreme Court decree prohibiting any construction in this area, which the Government of Uttar Pradesh, with the support of the Bharatiya Janata Party (Hindu nationalist movement), has undertaken to respect. According to reports received, the Indian authorities have failed to appreciate the significance of events that took place in the days leading up to the attack on the Babri Mosque and have taken no steps to protect the site.
>
> As a result of these events, relations between Hindus and Muslims have reportedly deteriorated in several parts of India. In the predominantly Muslim State of Kashmir, for example, persecution of the Hindu minority, and particularly of representatives of the Kashmiri

Pandits, by Muslim fundamentalists is said to have increased. Since 1990 some 250,000 people have reportedly had to flee from their homes and seek refuge in makeshift camps in northern India. Their deserted homes are said to have been bombarded with stones and mortar shells by Muslim extremists. According to an investigation published in India Today on 28 February 1993, about 50 Hindu temples were damaged, and 2 of them, the temples of Shailputri and Bhairon Nath in Baramula, were 90 per cent destroyed, but most were repaired quickly within a few days, contrary to some press reports.

One very recent report claims that the Moslem Hazratbal Shrine of Srinagar has been under siege since 16 October 1993 by a force of more than 10,000 Indian military and paramilitary personnel. They are alleged to have committed acts of vandalism in the main prayer area of this venerated complex, comprising a mosque, library and theological college, whose treasures are said to include the hair of the Prophet Muhammad. It is reported that, following two earlier attacks, this place of pilgrimage was stormed in February 1992 by Indian troops, who allegedly desecrated the site and set fire to the library. Copies of the Koran and some 16,000 books were reportedly destroyed.

After the attack on the Temple of Amritsar (State of Punjab) by the forces of law and order in 1984, it is alleged that the latent conflict in that region led the Indian authorities not only to prosecute the Sikhs responsible for acts of terrorism, but also to persecute many innocent Sikhs. The latter have reportedly been subjected to arbitrary detention, torture during interrogation and summary executions or disappearances. Some reports suggest that between 40,000 and 50,000 Sikhs - men, women and children - have fallen victim to the Indian armed forces.

Since the Punjab was placed under the direct administration of New Delhi in 1987, many Sikhs are said to have called for an amendment to the Indian Constitution recognizing the Sikh religion as distinct from Hinduism. It is claimed that section 25 of the Constitution requires Hinduism to be interpreted as including persons of Sikh, Jain or Buddhist faith. For many years, it is alleged, the Government of India has constantly interfered in the Sikh's religious affairs, which were managed by the Shromani Gurdawwara Parbhandhik Committee until the conclusion of the Nehru-Tara Singh agreement in 1959 between the Indian authorities and the Sikhs. The Sikhs apparently believe this agreement to have been broken when the authorities intervened at the Temple of Amritsar.

It is reported that, in the State of Uttar Pradesh, the Vishawa Hindu Parishad (Universal Hindu Alliance) recently decided, with the tacit support of the authorities, to convert to Hinduism some 8,000 people belonging to two Muslim communities with a pastoral way of life similar to the Yadav caste. After an intensive propaganda campaign centred on the heros of the great Hindu legends, future converts are said to have been asked to sign a petition renouncing Islam. They were reportedly then admitted to their new religious community by means of an initiation ceremony and in some cases received sums of money or plots of land.

> On 11 November 1992, approximately 2,000 Christians of all denominations are said to have demonstrated in the streets of Ahmadnagar, in the State of Maharashtra, to protest against the 'Army of Shiva' campaign to convert hundreds of Christians to Hinduism. The representatives of this army were, according to some reports, partly responsible for disturbances in Bombay from 5 January 1993 onwards. It is thought that more than 600 people died and several tens of thousands of Muslims left the city to escape the violence.
>
> In the State of Orissa, six people working for the Protestant mission 'Operation Mobilization', in early November 1992 and carrying out evangelical activities in the city of Bisham-Cuttack were reportedly attacked by members of an orthodox Hindu organization. It is said that they were beaten severely and had to be taken to hospital."

56. On 17 December 1993, the Permanent Mission of India to the United Nations Office at Geneva sent its observations on the above-mentioned communication, which had been transmitted to it by the Special Rapporteur:

> "1. The allegations contained in the above-mentioned communication do not conform to facts because India's ethos, Constitution and institutions fully safeguard minority rights. The contention that the minorities in India are victimized is a travesty of facts. Complete equality and respect for persons of all religions are not only enshrined in our Constitution and protected by our democratic institutions, but are also the hallmark of our ethos. Indian culture and traditions, as well as political thought and leadership, have historically, right down to the present time, guided the nation to hew to the path of tolerance and to cleave to the credo of 'unity in diversity'. It is for this reason that India is home to so many differing linguistic and religious groups. India is the birthplace of four major religions and is proud to count among its nationals nearly every major religious denomination including their sects and sub-sects. We have well over 120 million Muslims, grown from a mere 35 million at the time of independence, and other religious minorities numbering tens of millions.
>
> 2. Our secular Constitution ensures equality for all, irrespective of religion, by guaranteeing its citizens against discrimination on grounds of religion, race, caste, sex and place of birth. This applies also to employment or appointment to any office under the State. The Indian Constitution was deliberately framed to promote positive tolerance and to allow different faiths or persons to fully enjoy their rights of religious freedom. The Constitution of India gives all persons the right to freely profess, practise and even propagate religion. While the Indian State is secular in character, minorities are entitled to establish and manage their own institutions for religious, charitable and educational purposes. Any section of the citizens residing in the territory of India have the right to conserve their distinct culture, language and script. The customary and personal laws and beliefs of different religions are fully guaranteed and protected with a latitude not found in many other secular constitutions. The parliamentary democratic system ensures that those rights enshrined in the Constitution are justiciable before an independent judiciary. This right to

constitutional remedy is the essence of the enforceability of the fundamental right of religious freedom. Should things go wrong, we have in place a self-corrective mechanism in terms of a free press and secular temper of the people, which are the biggest critics of intolerance and injustice in any form.

3. Constitutional provisions apart, the Government has strengthened protection of different faiths through the establishment of a National Commission for Minorities by an Act of Parliament in 1992. The Commission will evaluate the progress of the development of minorities under the Union and the States, monitor the working of the constitutional safeguards and those in central and state legislation, and also look into specific complaints regarding deprivation of rights and safeguards of the minorities and take up such matters with the appropriate authorities. Apart from these monitoring activities, it also has many recommendatory functions. While performing the monitoring functions it has all the powers of a civil court including summoning witnesses, receiving evidence and requisitioning public records. Recommendations of the Commission will be laid on the table of Parliament or the State Legislature, as appropriate, together with a memorandum explaining the action to be taken by the governments concerned. Special courts are also functioning in several States of the Union to deal with expeditious trial of communal offences. The Central Government also gives financial assistance to voluntary organizations for activities aimed at discouraging communal ill-will. A National Foundation for Communal Harmony, headed by the Home Minister and with the Ministers of Human Resource Development and Welfare on the Governing Council, has recently been established. It is intended to strengthen the bonds of unity among different communities and to provide physical and psychological rehabilitation for the victims of communal disturbances, particularly children.

4. What matters even more is practice. India is proud of its minorities who have participated in all aspects of its national life and enriched it. Three Presidents of the Republic out of nine have been from minority communities. Eleven out of 60 or so Ministers in the present Cabinet are from our minorities. Several navy, air force and army chiefs have belonged to the minorities.

5. Despite the efforts of the Government, explicit provisions of the Constitution and the fact that our people by and large have a secular outlook, incidents of communal violence have occurred occasionally. Nevertheless, we have time and again observed that whenever such violence occurred, the overwhelming majority of right-thinking persons in India have expressed their condemnation and strong disapproval. This was much the case during the events following the demolition of the Babri Masjid in Ayodhya.

6. The reports relating to the Babri Masjid incident received by you unfortunately failed to make a distinction between cases where incidents have occurred for reasons beyond the control of the Government and those instigated and abetted by the Government themselves. The observations made in the summary of information on India in the annexure to your letter do not conform to facts and require detailed comments. The facts

are that one disputed mosque, not used for Muslim worship for decades, was destroyed by an unruly mob. As you are aware the Babri Masjid issue is of intense emotional, sentimental, historical, archaeological and religious complexity. Some believe that originally a temple dedicated to Lord Rama and representing his birthplace was located at the site of the Babri Masjid and that it was destroyed by the Mughal Emperor Babar in the sixteenth century for construction of the mosque. Others hold that there was no temple at this site and the Babri Masjid built by Emperor Babar did not involve the demolition of a temple. Over the years, this has become an increasingly contentious issue. It is also relevant to note that the Hindu structures of worship have existed in the outer courtyard of the disputed structure since 1885 and these have been open to Hindus for worship since 1950 whereas Muslims have not worshipped at the mosque for decades.

7. The alleged indifference and complicity of the Indian Government in the demolition of the Babri Masjid is a serious misrepresentation of facts. On the contrary, anxious to resolve the matter amicably between the contending parties, the Government of India engaged in lengthy negotiations with all concerned indicating its readiness to accept either a negotiated solution or to refer the matter to the courts for judicial determination. Before the issue could, however, be resolved, the opposition Bhartiya Janata Party decided to engage in religious work on 6 September in the vicinity of the mosque. The Central Government sought and obtained repeated assurances from the local Government, which under our federal polity is responsible for law and order, that it would safeguard the sanctity of the mosque. In addition, it made available substantial paramilitary forces to the local Government. However, its intervention in the light of the repeated assurances from the local Government would have run counter to the principles of our federal polity and it could have been accused of government toppling and constitutional impropriety.

8. The incident was immediately condemned in the strongest possible terms by the highest authorities in the land and comprehensive remedial measures were promptly instituted in the best traditions of India's secular polity and in keeping with its long history of respect and tolerance for all religions, beliefs and practices. Following the attack on the Ramjanambhoomi-Babri Masjid structure on 6 December 1992, the State Government was dissolved the same day. A decision was taken on 7 December 1992 to ban communal organizations, to take action for prosecution of the offences connected with the destruction, to fix responsibilities of various authorities. The Government decided to acquire all areas in dispute in the suit pending in the Allahabad High Court. The acquired area, excluding the area on which the disputed structure stood, would be made available to two Trusts which would be set up for construction of a temple and a mosque and for planned development of the area. In pursuance of these decisions, an ordinance was issued, subsequently converted into an Act of Parliament on 3 April 1993.

9. The rioting in some parts of India following the unfortunate destruction of the Babri Masjid mentioned in the annexure are the exception rather than the norm. These were the product of communal tensions, exacerbated by inflammatory rhetoric and action from across national frontiers, which were used by anti-social elements for their own interests. However, to argue that any single community was victimized is grossly incorrect. All Indians, irrespective of their religion, suffered. Not only have comprehensive judicial inquiries been instituted but prompt relief and rehabilitation measures have also been taken which have entailed disbursement of 10 million rupees. These steps are in the best traditions of India's secular polity and in keeping with its long history of respect and tolerance for all religions, beliefs and practices. As the Prime Minister of India observed, 'some unwelcome trends emerge from time to time because of India's diversity. These are, however, corrected by the intrinsic resilience of India's traditions and institutions and innate maturity of the people'.

10. The observation that relations between Hindus and Muslims have deteriorated in several parts of India as a result of these events is therefore a misrepresentation of facts. The Government of India is determined to remain faithful to its composite pluralistic cultural polity. Indeed, the institutions we fashioned to sustain ourselves as a pluralistic, multi-ethnic, multi-religious, multi-linguistic and secular polity have the over-arching objective of consolidating ourselves as a modern democracy. At the same time you will agree that the exercise of a pluralistic democracy, however, does not function in a void. Social and economic changes create their own tensions in all societies. Yet some divisive elements project these in ethnic, religious and secessionist terms and choose to impose their views by force instead of by democratic means. The delicate balance of a pluralistic democracy which is nurtured by respect for rule of law is being increasingly threatened by the phenomenon of terrorism which has finally been recognized at the World Conference on Human Rights as a violation of human rights. In India we have and are facing the situation of our commitment to democracy, our secular fabric and our territorial integrity being challenged by terrorist violence. More so, when those who abandon the path of democratic reasoning are aided by intrusive and motivated external forces.

11. It is extremism and terrorism of diverse ferocity that we have been facing in Punjab and Jammu and Kashmir. You have raised some concerns on the basis of reports received by you about the situation of minorities in these two states of India. The reality is that in Punjab the Sikh community are and have always lived with full freedom and have a more prosperous life than other citizens. There has been no discrimination or ill-treatment of the Sikhs in Punjab or any part of India. The problems that arose in Punjab were due to the religion-based terrorist elements, externally encouraged, who sought to widen the communal divide between the Sikhs and other communities for their political ends. In the course

of time, as many Sikhs fell victim to the terrorist bullets and bombs as Hindus. This defeated the aim of the terrorists of communalizing the Punjab polity. Finally, the sympathetic, patient and persuasive attitude of the Government, combined with the growing disenchantment of the common people with the killings, lootings and barbarism of religion-based extremism, has restored the harmony and full political process in Punjab.

12. In Kashmir, the systematic religious-based extremism by terrorist elements has resulted in an exodus of 250,000 members of other religious communities from the Kashmir valley to other parts of India. The atrocities perpetrated by the extremists have been wanton and indiscriminate and have spared none. The Hazratbal incident referred to by you was indeed the culmination of a series of crises planned by the militants and their mentors across the border to foment communal passions by attempts at arson and the occupation of no less than seven of the major religious shrines in the Kashmir valley between the middle of September and up to the end of November this year.

13. Thus, contrary to the allegations made in the annex to your letter, it was on receiving information that there was a concerted criminal conspiracy to desecrate the Hazratbal shrine and to tamper with the holy relic of the Prophet, that the Government got the area of the shrine being cordoned off and appealed to the militants to come out and surrender and also to allow the devotees, including women and children held hostage by the extremists, to come out of the mosque of their own free will. The thrust of the action by the security forces was to protect the shrine by appealing through patient negotiations to the militants to return to the path of reason and not to engage them in an armed encounter. During the month-long siege, exemplary restraint was shown by the security forces in the face of continuing provocation and unreasonable demands by the militants and their supporters outside who sought to create a confrontationist situation by playing up the emotive elements of the incident.

14. Despite the intransigence of the militants, the Government of India refused to be provoked and left no avenue unexplored for a peaceful solution of the Hazratbal situation. Throughout the crisis, complete transparency was maintained. Evidence of the strength of the Indian democratic institutions and the Government's commitment to ensuring protection of the fundamental rights of its citizens was shown in the latter's adherence to the State High Court's and Supreme Court's directives to provide food and humanitarian assistance to those within the shrine. The peaceful solution of the crisis despite grave provocation is indicative of the extent of the Government's commitment to respect the sentiments of the people and to preserve the sanctity of the shrine. This stands out in marked contrast to similar situations in some other countries where force has been readily used in order to evict the militants occupying religious shrines.

15. As regards the allegations of forcible conversion of Christians to Hinduism, you are probably aware that Hinduism is not a proselytising religion. It is a measure of the tolerance of the Indian secular polity that other religions and faiths are permitted to proselytise.

16. Like many other countries, ours too is not perfect. There are occasional regrettable outbreaks of violence but we believe that we have the requisite legal framework, institutional system and self-corrective mechanisms to deal with them. We have always been and shall always be committed to preserving the multi-religious and multi-lingual mosaic of India in a pluralist democratic framework because that is in keeping with our ethos and that is the essence of our strength."

57. On 21 December 1993, the Permanent Mission of India to the United Nations Office at Geneva sent additional information concerning the above-mentioned communication:

"i. As far as Maharashtra is concerned, the State Government of Maharashtra have carried out further investigations and have informed that on 13 November 1992, Christian and Dalit Panther workers organized a procession/demonstration under the leadership of Mr. Ashok Gaikwad (Dalit Panther), Advocate, Moos Made and Father Falcan on St. Anna's Church, Ahmed Nagar, purportedly to protest against alleged conversion of Christians and acts of communalized forces to foment hatred against them.

i.i. The same day an organization called the Shiva Sena had organized a public meeting (20,000) at Ahmed Nagar, Wadia Park, on which occasion, Bala Saheb Gaikwad (R/o Umbre, Taluka Rahori, District - Ahmed Nagar) declared that he had converted himself to Hinduism from Christianity.

i.ii There was no violence on the occasion and the two events narrated above were separate from each other. It is confirmed that there have been no instances of any forcible or organized conversion in the area.

ii. As regards the state of Orissa, the State Government have informed that no such incident as alleged in the letter had taken place in Bishan-Cuttack which is a small Block Headquarters with a population of about 10,000. No complaint was also lodged about any such incident with the police. The Superintendent of the Christian Hospital in Bishan-Cuttack, which is the largest there, has stated that no missionary team received treatment in their hospital in November 1992.

ii.ii No details about the persons who were allegedly attacked were provided in the annexure to your letter. Investigations by the State Government of Orissa on the strength of the information made available could not confirm that the report about the alleged incident had any basis.

iii. As regards the mention in your letter of the reports alleging conversion to Hinduism of 8,000 people belonging to the Muslim community in Uttar Pradesh, the State Government have made thorough inquiries and have not been able to confirm such instances."

Iran (Islamic Republic of)

58. On 8 December 1993, the Special Rapporteur forwarded to the Government of the Islamic Republic of Iran allegations concerning problems of religious intolerance.

59. For the reasons stated in paragraph 21 above, those allegations have not been included in this report.

Iraq

60. In a communication dated 23 November 1993, addressed to the Government of Iraq, the Special Rapporteur transmitted the following information:

> "According to information received by the Special Rapporteur, the policy of repression conducted by the Iraqi authorities against the Shia Muslim community in Iraq and against its religious or cultural institutions is still being systematically applied. Some of the opinions expressed suggest a deliberate intention on the part of the Government to attack the very foundations of Shia society; others see the authorities' actions as an attempt at genocide, more particularly affecting the Shia populations of the marshlands in the south of the country. Various Shia groups, such as the Fayli Kurds and the Turkomans, have allegedly been subjected to arbitrary expulsions and various forms of discrimination. These measures would appear to form part of an elaborately prepared programme being carried on with impunity.
>
> Allegedly, for example, the public commemoration of the martyrdom of the Imam Hussein, a momentous occasion in the religious life of a Shi'ite, was not authorized this year, and a similar ban was imposed on the Ashura processions during the holy month of Muharram.
>
> Continuing grave concern is expressed about the fate of the 106 religious dignitaries and theological students arrested at the same time as the late Grand Ayatollah Al-Khoei; a list of their names is annexed, together with further information supplementing that given in last year's report to the Commission (E/CN.4/1993/62). Allegedly only two persons have been released: a Pakistan national and one of the late Grand Ayatollah's sons. Fears are expressed that ill-treatment or torture have been inflicted on the other religious dignitaries or theological students during their stay in prison. Some of them, it is alleged, have perhaps even disappeared or are in danger of being executed.
>
> The Iraqi authorities are accused of having repeatedly raised false hopes among the families of the detained clergy as to their chances of release. Now the authorities are said to be threatening to deport those families, or at least those of non-Iraqi nationality, on the grounds that they no longer have any valid reason for prolonging their stay in the country since they have lost their main support. The attitude thus recently displayed by the authorities is allegedly additional to the

pressure they bring to bear on foreign clergy wishing to have their residence permits renewed, using the threat of deportation. That pressure has, it is claimed, severely blighted the flowering of religious life in the holy cities of southern Iraq and damaged the reputation of Najaf as a centre of religious teaching and an important place where Shia jurisprudence is evolved.

After the revolt of March 1991 the Iraqi authorities reportedly launched into a programme for the modernization of these towns with the aim of fundamentally changing their religious and cultural orientation. Their inhabitants are said to have been especially hard hit by this: apparently at Kerbala, for example, none of the persons whose houses or shops were bulldozed on Government instructions were compensated or offered alternative housing elsewhere. Allegedly, the families whose graveyards were desecrated and destroyed by Government order have been prevented from undertaking their restoration.

The offers made by the late Grand Ayatollah Al-Khoei to allocate religious funds for rebuilding the husseiniyas, mosques, libraries and religious centres that had been desecrated, damaged or destroyed, after March 1991, have, it seems, been rejected by the authorities, who have also allegedly refused to consider the reconstruction plans for the sites drawn up by the Grand Ayatollah's office. Apparently the Government has recently divided these sites into separate lots and put them up for public auction as an inducement to promoters to develop shopping centres.

The administration of the holy shrines is allegedly subjected to fault-finding supervision by the authorities. The libraries are, it seems, kept closed or admission to them made very difficult. Moreover, the manuscripts and books seized from these libraries or the private collections of religious dignitaries, including works of historical importance, have reportedly still not been returned to their owners. Allegedly, the caretaker of the holy shrine of the Imam Ali at Najaf, Sayyed Maqdad Killidar, is still in prison and the management of the city's religious property has been transferred to the direct control of the Government Ministry in Awqaf (Religious Endowment).

It is reported that many shrines of revered Shia leaders have been converted into Government offices, and that departments concerned with State security such as Amn (Security), Mukhabarat (Intelligence) or the police are occupying some of these premises, which are also allegedly used to detain pilgrims arrested when passing through. The main access route linking Najaf to Kerbala is still reportedly patrolled by many armoured vehicles and watched over by control posts that terrorize the local population.

The way the funeral of the Grand Ayatollah Sabzewari, heir presumptive of the late Grand Ayatollah Al-Khoei, was conducted is cited as an illustration of the contempt shown by the Iraqi authorities for the

> feelings of the Shia community. Reportedly, the funeral procession was prohibited and the deceased's remains were buried without ceremony, only a restricted public reading of the fatiha being authorized in Najaf.
>
> The Shia version of the call to prayer is said to be still forbidden in some districts of Baghdad inhabited by Shi'ites and in other localities north of the Iraqi capital such as Sayyed Muhammad, Samara and Tozkhormatoo. Shi'ite holidays are also allegedly not recognized.
>
> According to reports, the Fiqh College at Najaf, a centre for the teaching of Shia jurisprudence and other disciplines, has been closed and transferred to the Shari'a College in Baghdad, and the latter has suppressed any reference to Shia studies in the domain of philosophy or jurisprudence. The ban on some thousand Shia literary works of exceptional historical and cultural interest is allegedly still in force. It is claimed that Shi'ite scholars cannot get leave to publish their books without the consent of the authorities, which is often refused.
>
> The media have also allegedly instituted a systematic policy of disinformation or denigration directed against the Shi'ites and their religious convictions. In April 1991, it is asserted, one of the Ba'th Party newspapers described the Shia marsh dwellers as representatives of an ape-faced people descended from black slaves brought into the region in the Middle Ages. More recently, it is said, the Iraqi President's newspaper "Babylonia" referred in one of its items to a financial benefit offered to young couples wishing to marry on condition that they agreed to attend the mass ceremony organized for them at a large hotel in the capital on the very day of the commemoration of the death of the Imam Hussein and his family, especially revered by the Shi'ites. Finally, Shia religious programmes, and likewise any reference to the ceremonies and rituals practised by the Shi'ites, are allegedly banned on State television and radio."

61. On 23 December 1993, the Permanent Mission of the Republic of Iraq to the United Nations Office at Geneva transmitted to the Special Rapporteur the following information concerning the above allegations:

> "(1) With regard to the allegation that the Government of Iraq is waging a policy of systematic repression against Shiites and their religious institutions in an attempt to commit genocide, which would particularly affect the marsh-dwellers in the southern part of the country, the Iraqi Mission in Geneva has already responded in note verbale No. 7/4/3/272/92 dated 10 December 1992.
>
> (2) The allegation that the commemoration of the martyrdom of Imam Husayn was not authorized is fallacious and vague, since the usual official and public ceremonies were held. The media also organized special programmes to mark the event.
>
> (3) With regard to the 106 religious dignitaries who have allegedly disappeared, we wish to affirm the following:

1. Case of Kamal Muhammad Sultan Kalanter (10th name on the list attached to the Special Rapporteur's letter): we have already replied to the requests for clarification made in this connection by the Centre for Human Rights by stating that he is a religious dignitary of Iraqi nationality now living in the governorate of al-Najaf, in the district of al-Sa'ad.

2. Case of Ahmad Duwair Hashush al-Bahadli (5th name on the list attached to the Special Rapporteur's letter): the competent Iraqi authorities have informed us that he fled when the army restored order in the towns of Kerbala and al-Najaf after the disturbances in 1991 and that he subsequently returned to the country.

3. Case of Hassan al-Qubanji: according to the available information, he fled to Iran with his sons Ala al-Din and Sadr al-Din.

According to the investigations, the other persons whose names are on the list apparently fled to an unknown place during the 1991 disturbances.

(4) With regard to the allegation that various groups of Shiites, such as the Fayli Kurds and the Turomans, are being subjected to arbitrary expulsion and various types of discrimination, the Government of Iraq deplores such slanderous statements, which are far from the truth, and wishes to state that the Iraqi Constitution and legislation in force guarantee citizens freedom of choice in respect of religion and belief and that all citizens are equal before the law. Nothing in Iraqi laws favours the members of one community over those of any other or establishes preferences between communities, which are all equal before the law.

(5) We have already replied in our note verbale referred to in paragraph (1) above to the allegation that the al-Najaf faculty of jurisprudence (fiqh) has been closed.

(6) The allegation by the Special Rapporteur that the media have been conducting a systematic policy of disinformation against the Shiites and that the newspaper Babil published an article on financial assistance given to young couples wishing to get married on condition that they agreed to the collective marriage ceremony organized on the day of the commemoration of the death of Imam Ali during the month of Muharram, is an example of extreme and consistent bad faith towards Iraq. We wish to state that, in order to help young people who cannot afford to get married because the cost has increased following the economic embargo imposed on Iraq for the last three years, the Government of Iraq has undertaken this year to set up a programme for the organization of marriage ceremonies and the provision of financial assistance to enable the persons concerned to begin their new life. This programme, which began before the month of Muharram and is still going on, is being implemented in all governorates in Iraq.

(7) With regard to the allegation that the Iraqi authorities have embarked on a programme for the modernization of the towns of Kerbala and al-Najaf in order fundamentally to change their religious and cultural character and have demolished houses without paying compensation to the owners, the Government of Iraq wishes to make it clear that it has not made any fundamental change in the religious character of the holy places and towns and that it has carried out an operation to refurbish the buildings close to these holy places in a manner entirely in keeping with the religious character and style of their surroundings. The Government is also continuing to refurbish the holy places and to rebuild everything that was demolished by saboteurs during the March 1991 disturbances in a better and pure Muslim style. The tombs have been regilded on instructions from the President of the Republic and work is being done to rebuild all the mosques that were destroyed during the aggression against Iraq and the disturbances that followed. The Government is also continuing its refurbishment and maintenance work on the buildings used by students at the Kerbala and al-Najaf theological schools, at a cost of 3 million dinars.

It has also been stated that the Iraqi authorities were demolishing houses without paying compensation to their owners. That is a fallacious and totally slanderous allegation because the houses and neighbourhoods near holy cemeteries were demolished by the indiscriminate bombing which occurred during the aggression against Iraq. Other houses were set on fire during the disturbances by saboteurs, who did not spare public buildings, vehicles or the wealth and property of citizens. The Government has published a decree providing for assistance to the victims of the war and the process of compensation is continuing.

(8) With regard to the allegation that the Iraqi authorities prohibited the funeral procession for Ayatollah Sabzewari and did not authorize the customary ceremonies on such an occasion, we wish to make it clear that the Government is not required to organize any particular ceremony for religious dignitaries and that it does not prohibit the organization of funeral services for any person. It is up to the citizens to do so and the authorities have never prohibited such ceremonies in Sabzewari's memory.

(9) As to the allegation that literary works of historical or cultural interest have been blacklisted and that Shiite scholars are not authorized to publish their writings without the consent of the authorities, the Government of Iraq reaffirms that the Iraqi people is one and that no distinction is made between religions and communities, but, as in all countries, the question is what is appropriate for publication and what is not. Moreover, the economic embargo imposed on Iraq for the past three years has, inter alia, affected supplies of paper and printing ink and reduced the number of works of literature and jurisprudence published. Many writings have nevertheless been printed in the governorate of al-Najaf, and the Kerbala and al-Najaf theological schools continue to publish works of literature and jurisprudence despite the effects of the economic embargo on the publication of periodicals and newspapers throughout Iraq."

ANNEX

106 SHI'A CLERICS, STUDENTS AND RELATIVES OF THE LATE GRAND AYATOLLAH AL-KHOEI WHO "DISAPPEARED" IN MARCH 1991

	NAME	NATIONALITY/ APPROX. AGE AT TIME OF ARREST	OTHER INFORMATION
1	Shaikh Muhammad Hussain Sharif Kashef al-Ghata'	Iraqi;20	Single; student of religious studies; living in the al-'Amara district of al-Najaf prior to arrest.
2	Shaikh Radwan Habib Kashef al-Ghata'	Iraqi;30	
3	Al-Sayyid Faisal Muhammad al-Baghdadi	Iraqi;35	Married and has four children; student at Dar al-'Ilm school for religious studies in al-Najaf.
4	Shaikh Muhammad Hussain 'Abbas al-Turaihi	Iraqi;28	Married; student at Dar al-'Ilm school for religious studies in al-Najaf.
5	Shaikh Ahmad Duwair Hashush al-Bahadli	Iraqi;30	Married.
6	Al-Sayyid 'Ala' Nasser Muhammad	Iraqi;38	Married.
7	Al-Sayyid Muhammad Nasser Muhammad	Iraqi;36	Married.
8	Al-Sayyid 'Abbas Nasser Muhammad	Iraqi;18	
9	Al-Sayyid Haidar Nasser Muhammad	Iraqi;15	
10	Al-Sayyid Kamal Muhammad Sultan Kalanter	Iraqi;31	Married and has two children; graduate of the Technological Institute in al-Najaf; living in the Hay al-Sa'ad quarter of al-Najaf prior to arrest.
11	Al-Sayyid Muhammad 'Ali 'Abd al-Samad Zhaher al-Jabiri	Iraqi;40	Married.
12	Haidar 'Abd al-Amir 'Aziz Fakhreddin	Iraqi;34	
13	Muhammad 'Abd al-Amir 'Aziz Fakhreddin	Iraqi;28	

	NAME	NATIONALITY/ APPROX. AGE AT TIME OF ARREST	OTHER INFORMATION
14	Al-Sayyid Muhammad Ridha al-Sayyid Muhsin al-Hakim [Photo 2]	Iraqi;65	Married and has eight children; religious scholar and administrator of Dar al-Hikma School in al-Najaf; living in the al-Mishraq district of al-Najaf prior to arrest.
15	Al-Sayyid 'Ali Sa'id al-Hakim	Iraqi;55	Married and has seven children; cloth merchant; living in the al-Huwaish district of al-Najaf prior to arrest.
16	Al-Sayyid Ahmad Muhammad Ja'far al-Hakim	Iraqi;24	Trader; living in the al-Judaida district of al-Najaf prior to arrest.
17	Al-Sayyid Hassan Muhammad Ja'far al-Hakim	Iraqi;20	Trader; living in the al-Judaida district of al-Najaf prior to arrest.
18	Al-Sayyid 'Ali Muhammad Ja'far al-Hakim	Iraqi;18	School student; living in the al-Judaida district of al-Najaf prior to arrest.
19	Al-Sayyid Hassan al-Qubanji [Photo 3]	Iraqi;82	Married and has 21 children; well known mosque preacher; living in the al-Huwaish district of al-Najaf prior to arrest.
20	Shaikh Muhammad Ja'far Muhammad Al Sadeq	Iraqi;48	Married and has four children; student at Dar al-'Ilm school for religious studies in al-Najaf; living in the Khan al-Mukhaddar district of al Najaf prior to arrest.
21	Shaikh 'Abd al-Amir Abu al-Tabuq	Iraqi;48	Married and has five children; studied at Dar al-'Ilm school for religious studies in al-Najaf; well known mosque preacher; living in the al'-Amara district of al-Najaf prior to arrest.
22	Shaikh Ahmad al-Dujaili	Iraqi;68	Married and has seven children; preacher in a mosque; living in the Hay al-'Ulama' quarter of al-Najaf prior to arrest.

	NAME	NATIONALITY/ APPROX. AGE AT TIME OF ARREST	OTHER INFORMATION
23	Shaikh Hadi al-Jasani	Iraqi;44	Married and has one child; student of religious studies.
24	Al-Sayyid Muhammad Taqi Ja'far al-Mar'ashi [Photo 4]	Iraqi;61	Married and has six children; religious scholar; living in the al-Judaida district of al-Najaf prior to arrest.
25	Al-Sayyid Muhammad Muhammad Taqi al-Mar'ashi	Iraqi;32	Married and has two children; student at the al-Akhund Al-Kubra school for religious studies in al-Najaf ; living in the al-Judaida district of al-Najaf prior to arrest.
26	Al-Sayyid Ahmad Muhammad Taqi al-Mar'ashi	Iraqi;24	Student; living in the al-Judaida district of al-Najaf prior to arrest.
27	Al-Sayyid Muhammad Baqer Muhammad Ibrahim 'Abd al-Hadi al-Shirazi [Photo 5]	Iraqi;34	Married and has two children; student at Dar al'-Ilm school of religious studies in al-Najaf; living in the al-'Amara district of al-Najaf prior to arrest.
28	Al-Sayyid Taqi Jum'a Jawad	Iraqi;46	Married and has six children.
29	Al-Sayyid 'Ammar 'Abbud Bahr al-'Ulum	Iraqi;23	University student; living in the Hay al-Kinda quarter of al-Kufa prior to arrest.
30	Al-Sayyid Ja'far Musa Bahr al-'Ulum	Iraqi;60	Married and has five children; religious scholar; living in the town of al-Mishkhab, near al-Najaf, prior to arrest.
31	Al-Sayyid Ahmad Ja'far Bahr al'-Ulum	Iraqi;36	Married and has two children; architect; graduate of the Faculty of Architecture at the University of Baghdad; living in the Hay al-Sa'ad quarter of al-Najaf prior to arrest.

	NAME	NATIONALITY/ APPROX. AGE AT TIME OF ARREST	OTHER INFORMATION
32	Al-Sayyid Muhammad Jawad Musa Ja'far Bahr al-'Ulum	Iraqi;33	Married and has two children; student of religious studies; living at the home of the Grand Ayatollah al-Imam al-Kho'i in al-Najaf prior to arrest.
33	Al-Sayyid 'Izzidin 'Ali Bahr al-'Ulum [Photo 6]	Iraqi;55	Married and has five children; religious scholar; studied at the al-Tusi mosque in al-Najaf; living in the al-Mishraq district of al-Najaf prior to arrest.
34	Al-Sayyid 'Ala'uddin 'Ali Bahr al-'Ulum [Photo 6]	Iraqi;58	Married and has three children; religious scholar; studied at the al-Tusi mosque in al-Najaf and led prayers at the Imam 'Ali Shrine; living in the al-'Amara district of al-Najaf prior to arrest.
35	Al-Sayyid 'Ali 'Ala'uddin Bahr al-'Ulum [Photo 6]	Iraqi;30	Married and has two children; student at Dar al-'Ilm school for religious studies in al-Najaf; living in the al-Mishraq district of al-Najaf prior to arrest.
36	Al-Sayyid Mustafa 'Ala'uddin Bahr al 'Ulum [Photo 7]	Iraqi;26	Married and has one child; student at Dar al-'Ilm school for religious studies in al-Najaf; living in the al-Huwaish district of al-Najaf prior to arrest.
37	Al-Sayyid Amin 'Ala'uddin Bahr al-'Ulum [Photo 8]	Iraqi;24	Student of civil engineering at Baghdad University; living in the al-'Amara district of al-Najaf prior to arrest.
38	Al-Sayyid Muhammad Ridha Musa Bahr al-'Ulum	Iraqi;40	Married and has four children; student at Dar al-'Ilm school for religious studies in al-Najaf; living in the al-Mishraq district of al-Najaf prior to arrest.

	NAME	NATIONALITY/ APPROX. AGE AT TIME OF ARREST	OTHER INFORMATION
39	Al-Sayyid Muhammad Hussain Musa Bahr al 'Ulum	Iraqi;44	Married and has three children; student of religious studies; graduate of the College of Islamic Jurisprudence in al-Najaf; living in the Hay al-Mutanabbi quarter of al-Najaf prior to arrest.
40	Al-Sayyid Muhsin Muhammad Hussain Bahr al-'Ulum	Iraqi;21	Student at Baghdad University; living in the Hay al-Mutanabbi quarter of al-Najaf prior to arrest.
41	Al Sayyid Muhammad 'Abbud Bahr al 'Ulum	Iraqi;35	Married and has two children; electrical engineer; graduate of the Faculty of Engineering at Baghdad University; living in the Hay al Kinda quarter of al-Kufa prior to arrest.
42	Al-Sayyid Hassan Musa Bahr al-'Ulum [Photo 9]	Iraqi;54	Married and has four children; religious scholar and imam of the al-Kufa mosque; living in the Hay al-Amir quarter of al-Najaf prior to arrest.
43	Al-Sayyid Muhammad Hassan Bahr al-'Ulum	Iraqi;21	Student at Baghdad University; living in the Hay al-Amir quarter of al-Najaf prior to arrest.
44	Al-Sayyid Miqdad Hussain al-Klidar	Iraqi;26	Married and has one child; graduate of Baghdad University; custodian of the Imam 'Ali Shrine in al-Najaf; living in the Hay al-Sa'ad quarter of al-Najaf prior to arrest.
45	Al-Sayyid Ibrahim al-Sayyid Abul-Qassem al-Kho'i [Photo 10]	Iranian;27	Born in al-Najaf; married and has two children; student of religious studies; worked and lived with his father the Grand Ayatollah al-Imam al-Kho'i in al-Najaf; also worked as a cloth merchant.

	NAME	NATIONALITY/ APPROX. AGE AT TIME OF ARREST	OTHER INFORMATION
46	Al-Sayyid Mahmud 'Abbas al-Milani [Photo 11]	Iranian;29	Married and has one child; student at Dar al-'Ilm school for religious studies in al-Najaf; living in the al-Barraq district of al-Najaf prior to arrest.
47	Al-Sayyid Muhammad Ibrahim 'Abd al-Hadi al-Shirazi [Photo 12]	Iranian;58	Married and has five children; studied at Dar al-'Ilm school for religious studies in al-Najaf; religious scholar and advisor to the Grand Ayatollah al-Imam al-Kho'i; living in the al-'Amara district of al-Najaf prior to arrest.
48	Al-Sayyid Murtadha Jawad al-Kadhimi al-Khalkhali [Photo 13]	Iranian;89	Married and has four children; religious scholar; studied at Dar al-'Ilm school for religious studies in al-Najaf; living in the al-Huwaish district of al-Najaf prior to arrest.
49	Al-Sayyid Mahdi Murtadha al-Khalkhali	Iranian;40	Married and has four children; student at the al-Qazwini school for religious studies in al-Najaf; living in al-Huwaish district of al-Najaf prior to arrest.
50	Al-Sayyid Muhammad Sadeq Mahdi al-Khalkhali	Iranian;22	Student at the al-Qazwini school for religious studies in al-Najaf; living in the al-Huwaish district of al-Najaf prior to arrest.
51	Al-Sayyid Muhammad Saleh Mahdi al-Khalkhali	Iranian;20	Student at the al-Qazwini school for religious studies in al-Najaf; living in the al-Huwaish district of al-Najaf prior to arrest.
52	Al-Sayyid Muhammad Hussain Mahdi al-Khalkhali	Iranian;18	Student at the al-Qazwini school for religious studies in al-Najaf; living in the al-Huwaish district of al-Najaf prior to arrest.

	NAME	NATIONALITY/ APPROX. AGE AT TIME OF ARREST	OTHER INFORMATION
53	Al-Sayyid Muhammad Ridha Zain al-'Abidin al-Musawi al-Khalkhali [Photo 14]	Iranian;63	Married and has six children; religious scholar and author of books on theology; studied religion at al-Najaf University; living in the al-Huwaish district of al-Najaf prior to arrest; arrested with the Grand Ayatollah al-Imam al-Kho'i.
54	Shaikh 'Ali Muhammad Taqi Wa'ezh Zadeh	Iranian;32	Married and has two children; student of religious studies and preacher in a mosque; living in the al-Barraq district of al-Najaf prior to arrest.
55	Shaikh Muhammad Muhammad Ibrahim Isma'il 'Uzlat	Iranian;61	Married and has seven children; studied at the al-Yazdi al-Kubra school for religious studies in al-Najaf; living in al-Madina street in al-Najaf prior to arrest.
56	Shaikh Hussain 'Ali Ghulam Ridha Fairuz Bakht	Iranian;63	Married and has five children; studied at the al-Akhund al-Kubra school for religious studies in al-Najaf; living in the al-Judaida district of al-Najaf prior to arrest.
57	Shaikh Muhammad Hussain Hussain Fairuz Bakht	Iranian;32	Married and has two children; student at the al-Bukhara'i school for religious studies in al-Najaf; living in the al-Barraq district of al-Najaf prior to arrest.
58	Shaikh Muhammad Baqer Hussain 'Ali Fairuz Bakht	Iranian;29	Trader working in the al-Souq al-Kabir in al-Najaf; living in the al-Judaida district of al-Najaf prior to arrest.

	NAME	NATIONALITY/ APPROX. AGE AT TIME OF ARREST	OTHER INFORMATION
59	Shaikh 'Ali Asghar Muhammad Taqi al-Ahmadi [Photo 15]	Iranian;78	Married and has six children; religious scholar; studied at the al-Bukhara'i school for religious studies in al-Najaf; living in the al-Huwaish district of al-Najaf prior to arrest.
60	Al-Sayyid Muhammad 'Ali Muhammad Muhammad 'Ali Mir Salari [Photo 16]	Iranian;62	Married and has eight children; studied at the al-Sharbiyani school for religious studies in al-Najaf; living in the Khan al-Mukhaddar district of al-Najaf prior to arrest.
61	Al-Sayyid Habib Hassan Saleh Hussainian	Iranian;55	Married and has five children; studied at the al-Qazwini school for religious studies in al-Najaf; teacher of religious studies; living in the Khan al-Mukhaddar district of al-Najaf prior to arrest.
62	Al-Sayyid Muhammad Kadhim Habib Hussainian	Iranian;21	Student at the al-Qazwini school for religious studies in al-Najaf; living in the Khan al-Mukhaddar district of al-Najaf prior to arrest.
63	Al-Sayyid Muhammad Baqer Habib Hussainian	Iranian;19	Student at the al-Qazwini school for religious studies in al-Najaf; living in the Khan al-Mukhaddar district of al-Najaf prior to arrest.
64	Al-Sayyid Hussain Jawad Al 'Ali al-Shahrudi	Iranian;38	Married and has two children; student of religious studies at the al-Akhund al-Kubra school for religious studies in al-Najaf; living in the al-Judaida district of al-Najaf prior to arrest.

	NAME	NATIONALITY/ APPROX. AGE AT TIME OF ARREST	OTHER INFORMATION
65	Shaikh Mahdi Hassan al-Fadili	Iranian;36	Married and has four children; student at the al-Qazwini school for religious studies in al-Najaf; living in al-Madina street in al-Najaf prior to arrest.
66	Shaikh Ridha 'Ali Akbar Ridha	Iranian;22	Married and has one child; student of religious studies.
67	Al-Sayyid Rasul Ridha Hussain Hashimi Nasb	Iranian;25	Student; living in the al-Huwaish district of al-Najaf prior to arrest.
68	Al-Sayyid Hashem Ridha Hussain Hashimi Nasb	Iranian;22	Student; living in the al-Huwaish district of al-Najaf prior to arrest.
69	Al-Sayyid Ahmad Hussain Muhammad al-Bahraini	Iranian;42	Married and has two children; student of religious studies.
70	Al-Sayyid Mahmud Hussain Muhammad al-Bahraini	Iranian;38	Married and has two children; student of religious studies.
71	Shaikh Zakariyya Isra'il Muhammad Ridha al-Nusairi	Iranian;41	Student at the al-Burujardi school for religious studies in al-Najaf.
72	Shaikh Taqi Hassan 'Abbas 'Ali Diryab	Iranian;24	Student at the al-Bukhara'i school for religious studies in al-Najaf; living in the al-Judaida district of al-Najaf prior to arrest.
73	Al-Sayyid 'Abbas Shah Hussain Shah Ahmad	Indian;52	Married; student at the Indian school for religious studies in al-Najaf; living in the al-Mishraq district of al-Najaf prior to arrest.
74	Al-Sayyid Jawad 'Abbas Hussain Shah	Indian;21	Married; student; living in the al-Judaida district of al-Najaf prior to arrest.

	NAME	NATIONALITY/ APPROX. AGE AT TIME OF ARREST	OTHER INFORMATION
75	Shaikh Baqer Musa Isma'il	Pakistani;50	Married and has seven children; student at the Indian school for religious studies in al-Najaf; living in the al-Mishraq district of al-Najaf prior to arrest.
76	Shaikh Muhammad Jawad Baqer Musa Isma'il	Pakistani;23	Trader working in the al-Souq al-Kabir in al-Najaf; living in the al-Mishraq district of al-Najaf prior to arrest.
77	Shaikh 'Ali Baqer Musa Isma'il	Pakistani;21	Student; living in the al-Mishraq district of al-Najaf prior to arrest.
78	Shaikh Muhammad Baqer Baqer Musa Isma'il	Pakistani;20	Student.
79	Shaikh Ahmad Ghulam Muhammad Ja'far	Pakistani;22	
80	Shaikh Akhtar Muzaffar Hussain Ghulam 'Ali	Pakistani;35	Married and has two children; student of religious studies; living in the al-'Amara district of al-Najaf prior to arrest.
81	Shaikh Muhammad Sharif Ghulam Haidar Ghulam Muhammad	Pakistani;35	Married and has three children; student of religious studies.
82	Shaikh Sadeq 'Ali Ghulam Haidar Ghulam Muhammad	Pakistani;23	
83	Al-Sayyid Assadullah Sulaiman Mahmud	Afghan;42	Married; living in the al-Judaida district of al-Najaf prior to arrest.
84	Shaikh Muhammad Nasser Mihrab 'Ali Darab 'Ali	Afghan;34	Married; student at the Dar al-'Ilm school for religious studies in al-Najaf; living in the al-Judaida district of al-Najaf prior to arrest.
85	Shaikh Muhammad Ja'far Mirza Hussain Ghulam 'Ali	Afghan;30	Married; living in the al-Judaida district of al-Najaf prior to arrest.

	NAME	NATIONALITY/ APPROX. AGE AT TIME OF ARREST	OTHER INFORMATION
86	Al-Sayyid Hashem 'Ali Karim Muslim	Afghan;45	Married; living in the al-Judaida district of al-Najaf prior to arrest.
87	Fadl Hussain Muhammad Amir	Afghan;42	Married; living in the al-Judaida district of al-Najaf prior to arrest.
88	Mihrab 'Ali Ghulam Hussain	Afghan;38	Married; labourer; living in al-Madina street in al-Najaf prior to arrest.
89	Muhammad Musa Muhammad 'Ali Ghulam Hussain	Afghan;34	Married; student at the Dar al-'Ilm school for religious studies in al-Najaf; living in the al-Judaida district of al-Najaf prior to arrest.
90	Muhammad Hussain Muhammad 'Ali Ghulam Hussain	Afghan;32	Married; student at the Dar al-'Ilm school for religious studies in al-Najaf; living in the al-Judaida district of al-Najaf prior to arrest.
91	Muhammad Jawad Muhammad 'Ali Ghulam Hussain	Afghan;27	Married; student at the Dar al-'Ilm school for religious studies in al-Najaf; living in the al-Judaida district of al-Najaf prior to arrest.
92	Shaikh Taleb al-Khalil	Lebanese;48	Married and has six children; studied at the Dar al-'Ilm school for religious studies in al-Najaf; teacher.
93	Shaikh Hadi Mufid al-Faqih	Lebanese;40	Married; student of religious studies.
94	Shaikh Mahdi Mufid al-Faqih	Lebanese;35	Married; student of religious studies; living in the Khan al-Mukhaddar district of al-Najaf prior to arrest.
95	Shaikh Sadeq Muhammad Ridha al-Faqih	Lebanese;25	Married; student of religious studies.
96	Shaikh 'Abd al-Rahman al-Faqih	Lebanese;38	Married; student of religious studies.

	NAME	NATIONALITY/ APPROX. AGE AT TIME OF ARREST	OTHER INFORMATION
97	Shaikh 'Ali Ja'far	Lebanese;31	Married; student of religious studies.
98	Al-Sayyid Hassan 'Ali Kadhim Al Sharaf	Bahraini;28	Single; born in the village of Jad Hafs in Bahrain; student at the Faculty of Law and Politics at Baghdad University; resided in the al-A'dhamiyya district of Baghdad; fled to al-Najaf in mid-January 1991 to escape aerial bombardment; last seen in April 1991.
99	Shaikh Fadel 'Abbas Ahmad al-'Umani [Photo 17]	Bahraini;29	Married and has one child; born in al Manama in Bahrain; student of religious studies in al-Najaf.
100	Shaikh Muhammad Jawad 'Abd al-Rasul Hussain	Bahraini; age unknown	Married; student of religious studies.
101	Shaikh Ja'far 'Abdallah Mukhtar	Bahraini;22	Single; born in the village of al-Sanabes in Bahrain; student of religious studies in Iraq since 1989, at the Dar al-'Ilm school in al-Najaf.
102	Shaikh 'Issa Hassan 'Abd al-Hussain	Bahraini; age unknown	Married, student at the al-Akhund al-Kubra school of religious studies in al-Najaf.
103	Shaikh Fadel al-Sa'di	Bahraini; age unknown	Married; student at the al-Akhund al-Kubra school of religious studies in al-Najaf.
104	Ridha Ahmad 'Abd al-Karim al-Shihabi [Photo 10]	Bahraini;21	Single; born in the village of al-Draz in Bahrain; student of religious studies in Iraq since 1989, at the Kashef al-Ghata' school in al-Najaf; living in the al-Huwaish district of al-Najaf prior to arrest.

	NAME	NATIONALITY/ APPROX. AGE AT TIME OF ARREST	OTHER INFORMATION
105	Shaikh 'Issa Hassan al-Samahiji [Photo 19]	Bahraini;22	Single; born in al-Samahij in Bahrain; student of religious studies in al-Najaf since early 1990, at the Dar al-Hikma school.
106	Shaikh 'Ali Musa al-Huri [Photo 20]	Bahraini;23	Single; born in al-Manama in Bahrain; student of religious studies in al-Najaf since early 1989; teacher of Arabic.

Malaysia

62. In a communication dated 18 September 1992, addressed to the Government of Malaysia (E/CN.4/1993/62, para. 44), the Special Rapporteur transmitted the following information:

> "According to the information received, citizens of Malaysia who are members of the New Testament Church (NTC) have been persecuted for a number of years. It has been alleged that church registrations have been revoked, that the spiritual publications and banners of the church have been confiscated and that members have been repeatedly arrested and detained for preaching the gospel. It has also been alleged that the Malaysian authorities did not protect members of the NTC who were Malaysian citizens when they were subjected to persecution in Taiwan in 1985 and in Singapore in 1987.
>
> In addition, it has been reported that Ms. Cecilia Woo, an NTC pastor, was tried in court in 1990 for preaching. It has also been reported that any mention of the scriptures in court was prohibited and that the Bible was banned from the courtroom on that occasion. Ms. Woo is said to have been sentenced to six months' imprisonment for preaching after an initial imprisonment of three months to which she was allegedly sentenced on charges of 'contempt of court'.
>
> According to the sources, nine members of the New Testament Church were arrested on 1 March 1991 in Kuala Lumpur when they were preaching. They were reportedly taken to a police station and detained on charges of 'illegal assembly', 'resisting arrest' and 'interfering with official duty'. It has been reported further that on 4 March 1991, 21 members of the NTC were arrested and imprisoned on charges of 'illegal assembly' when they came to the above-mentioned police station to demand the release of their nine co-religionists. Their case is said to have been transferred to the Police Special Branch. It has been reported that the detained members of the NTC have been denied visits and medical treatment. It has been alleged that on 10 March 1991, the police refused to divulge the place of detention of the 21 members of the NTC arrested on 4 March 1991 to their families. The names of the 30 members of the New Testament Church who have been arrested are:
>
> 1. Sia Geok Hee, 37
> 2. Leong Soon Yong, 18
> 3. Gim Kah Hun, 37
> 4. Ng Lee Fang, 23
> 5. Lau Lih Yan, 23
> 6. Chew Keng Leng, 23
> 7. Teng Mui Fong, 27
> 8. Teh Lily, 33
> 9. Tan Sook Kuan, 15
> 10. Tan Yew Chuan, 34
> 11. Tan Choon Hun, 36
> 12. Tan Guat Ling, 31
> 13. See Seng Teck, 54
> 14. Lai Ah Lik alias Lai Boey, 52
> 15. Wong Chok Chang, 42
> 16. See Yee Al, 23
> 17. Tan Tian Chiew, 32
> 18. Lim Kai Tong, 62
> 19. Chew Kwang Sang, 25
> 20. Chew Kwang Seok, 22
> 21. Chew Kwang Sim, 21
> 22. Ng Lee Ling, 22
> 23. Ruth Ooi Lee Eng, 22
> 24. Goh Lai Eng, 50
> 25. Wong Yau Chee, 57
> 26. Lim Yew Lee, 57
> 27. Lee Kaw alias Lee Toong Lam, 43
> 28. Ng Nyet Chin, 34
> 29. Leong Ha alias Leong Keong On, 47
> 30. Ivy Ong"

63. On 4 August 1993, the Permanent Mission of Malaysia to the United Nations Office at Geneva transmitted to the Special Rapporteur the following information concerning the above allegations:

> "On 1 March 1991, at about 11 p.m., 9 members of the New Testament Church (NTC) were arrested under Section 117 of the Criminal Procedure Code (a legislation that empowers the police to detain for a period of 24 hours in order to file charges).
>
> Charges brought against them were as follows:
>
> (a) Illegal Assembly (Section 27 of the Police Act). They were found assembled without any legal permit in a public place distributing pamphlets and using loud speakers to attract members of the public.
>
> (b) Obstructing a public servant in the discharge of his public functions (Section 186 of the Penal Code). Nine (9) members of the New Testament Church in the illegal assembly tried to prevent a police officer on patrol from discharging his duty.
>
> Following the arrest of the above 9 members, 21 other members of the NTC assembled in the compound of a police station protesting against the arrest and agitating for their release.
>
> They were arrested in the afternoon of the same day when they refused to disperse and leave the compound of the police station. They were detained under Section 117 of the Criminal Procedure Code and Section 145 of the Penal Code (Joining or continuing in an unlawful assembly, knowing that it has been commanded to disperse).
>
> The detention of the other 21 members were extended to 9 March for further investigation under Section 145 of the Penal Code.
>
> On 13 March 1991, all 30 members of NTC were brought before the court. The first group of 9 were charged under Section 27 of the Police Act (illegal assembly) and Section 186 of the Penal Code (obstructing a public servant in the discharge of his public functions). They pleaded not guilty and were allowed bail of RM1,000.00 each (US $350.00). The other group of 21 members, charged under Section 145 of the Penal Code, pleaded not guilty and were allowed bail of RM500.00 each. The subsequent trials were postponed several times as their defence counsel failed to turn up in court. New dates for their trial was set for 12-14 July 1993.
>
> With reference to Cecilia Woo Guat Sim, the case against her was made when she, together with 18 other followers, on 28 September 1980 entered a Chinese temple of worship for members of the Buddhist faith and distributed pamphlets to the worshippers in the temple which stated that 'Idols are False Gods'. This violation of a place of worship infuriated the Buddhist worshippers and a report was lodged to the Police. Following the report, Cecilia Woo was arrested and charged in court under Section 295 of the Penal Code (impairing or defiling a place of worship

with intent to insult the religion of any class). Her trials were postponed several times and while awaiting trial she was released on bail.

On 22 January 1990, Cecilia Woo was found guilty as charged and was sentenced to 6 months' imprisonment. She was also at the same trial, charged with contempt of court under Section 228 of the Penal Code for reciting her scriptures while the trial was in session with a view to disrupting the proceedings. For this offence she was fined RM1,000.00 or in default, three months imprisonment. Cecilia Woo refused to pay the fine and was sentenced to three months imprisonment. Both the sentences were to be served concurrently. Cecilia Woo was imprisoned for 6 months and subsequently was released on 28 July 1990.

The activities of the New Testament Church came to the notice of the relevant authorities in 1980 when its members were reported to be persistently disrupting and belittling religious gatherings of other religions including Buddhist and Christian congregations. Their manner of preaching through defiling and running down other religions infuriated many and risked creating public disorder. The attack made against other religions is also against the Constitution of Malaysia which guarantees the freedom to profess any religion.

Numerous reports and complaints by members of the public and various religious groups representing Christian and Buddhist faiths as well as complaints by some of the parents of the younger members of NTC proved that the NTC had breached the conditions of its establishment.

Following this, the Registrar of Societies decided to deregister the New Testament Church effective 14 August 1985. The main reasons for the deregistration were:

(a) The members violated conditions governing the registration of their society.

(b) The members acted in an aggressive and abusive manner trespassing into Buddhist temple and Christian churches and interrupting and disrupting religious ceremonies."

Myanmar

64. In a communication dated 28 September 1993, addressed to the Government of Myanmar, the Special Rapporteur transmitted the following information:

"According to the information received, members of the Buddhist and Christian religious communities have also been persecuted in addition to those belonging to the Muslim faith.

It has been alleged that 3,000 Buddhist monks were arrested in 1990 and that more than 20 monasteries were nationalized and their monks expelled. Buddhist monks have allegedly on occasion been prohibited from collecting alms and forced to disrobe. It has also been reported that numerous monks were arrested, tortured in interrogation centres and sentenced to between three and ten years of imprisonment. Many other monks are said to have been forcibly taken for porter duty and sent away to remote border areas.

The Special Rapporteur was also informed that on 20 March 1990, the local authorities pulled out from the ground a cross located in Pekingkawkhu village, Moe Bye township, Karenni State. On 14 May 1991, the chapel in Loetamu village near Loikaw was reportedly ordered removed along with a number of Catholic-owned houses, to make way for the construction of military barracks. Inhabitants were allegedly ordered to leave their houses and newly built churches and destroy their crops in the Dounganka parish which comprises three Catholic and one Baptist village. On 3 January 1992, 20 acres of land are reported to have been confiscated from the convent in Phruso township for the construction of military barracks. The Catholic cemetery in Phruso was allegedly desecrated the same day, with crosses being removed from graves and destroyed by the army. On 16 and 17 February 1992, two crosses which had been planted on hills near Phruso 10 years earlier were reportedly ordered cut down by the chairman of the local Law and Order Restoration Council. It has been alleged that the Catholic cemetery in Loikaw was closed and sealed.

As he indicated in paragraph 45 of his report to the Commission on Human Rights at its forty-ninth session (E/CN.4/1993/62), the authorities of Myanmar have implemented population transfers which have affected members of the country's Muslim community. The Special Rapporteur was informed that population transfers have also been implemented with regard to localities inhabited by Christians. On 1 March 1992, it was reported that the villages of Hoya parish were ordered to move to Phruso within one week. A few days later, similar orders were allegedly issued to more than 40 villages in the Dolaco and Ghekaw parishes. On 15 March 1992, the villages from Dawrawkhu parish were reportedly ordered to move to Demoso township within three days. It has been alleged that population transfers were often made to localities with no sanitation, drinking water or other basic facilities.

The distance between some of the villages and the designated locations of transfer is alleged to have forced numerous people to carry no more than their children, the clothes they were wearing and a 2-day ration of food. It has been reported that soldiers went on a rampage in Hoya even before its inhabitants had left, inflicting, inter alia, serious damage to the convent and housing quarters for the clergy. It has been reported that 90 per cent of the inhabitants of Hoya, Ghekaw, Dolaco and Dorawkhu parishes are Catholics and that the churches, chapels, housing quarters for clergy and convents were traditionally well established there.

It has been alleged that in March 1992, a crane was used to dismantle the cross of the Roman Catholic church in Hpe Khon, Shan State, in order to punish its priest."

Nepal

65. In a communication dated 28 September 1993, addressed to the Government of Nepal, the Special Rapporteur transmitted the following information:

> "The information I have received states that positive Nepalese law prohibits religious conversion (art. 19.1 of the Constitution of Nepal), and this would be contrary to universally recognized standards of religious freedom.
>
> May I thus kindly request the Government of Nepal to transmit to me a copy of the texts dealing with the question and to let me have its views and comments on the matter."

66. On 5 November 1993, the Permanent Mission of the Kingdom of Nepal to the United Nations Office at Geneva forwarded its comments on the above-mentioned communication which had been transmitted to it by the Special Rapporteur:

> "I have the honour to refer to your letter No. G/SO 214 (56-7), dated 28 September 1993 concerning the Commission on Human Rights resolution 1993/25 of 5 March 1993 entitled 'Implementation of the Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief', and to convey the following:
>
> (a) In practice as well as under the existing laws, there has been high degree of religious tolerance, harmony and coexistence among different beliefs in the Kingdom of Nepal.
>
> (b) The Constitution of the Kingdom of Nepal has guaranteed the right to religion, under the provisions of its Article 19, informal translation of which is given below:
>
> 19. Right to Religion:
>
> (1) Every person shall have the freedom to profess and practise his own religion as coming down to him hereditarily having due regard to the traditional practices. Provided that no person shall be entitled to convert the religion of any person.
>
> (2) Every religious denomination shall have the right to maintain its independence existence and for that purpose to manage and protect its religious places and trusts.
>
> It should be pointed out that the proviso of the Article 19 (1) does not limit or restrict the personal religious freedom and the choice of the religion. Instead, it reflects the intent to discourage the anomaly in a socio-economically weak society where instances of involuntary religious conversion are found to have taken place by means of financial enticement and other temptations. The Article does not go against the universally accepted norms of the religious freedom, it rather acts as a source of guarantee to a weak person in protecting and preserving his fundamental rights."

Pakistan

67. In a communication dated 8 November 1993, the Special Rapporteur transmitted to the Government of Pakistan allegations concerning problems of religious intolerance.

68. For the reasons indicated in paragraph 21 above, those allegations have not been included in the present report.

Republic of Moldova

69. In a communication dated 31 August 1993, addressed to the Government of Moldova, the Special Rapporteur transmitted the following information:

> "According to the information received, the congregation and the clergy of the Moldovan Autonomous Church, which is a part of the Metropolitanate of Bessarabia within the Romanian Patriarchate, have been the object of discrimination by the authorities.
>
> It has been reported that, in 1940, the Patriarchate of Moscow illegally and in violation of canon law annexed the ecclesiastical territory of the Metropolitanate of Bessarabia and that hundreds of priests and hundreds of thousands of believers from Bessarabia were forced to go into exile. Hundreds of thousands of persons were thus allegedly deported or physically eliminated. It has also been reported that the Church hierarchy was declared 'the enemy of the people' and that 90 per cent of the Church's property, including places of worship, were confiscated, closed or desecrated. All contact with the Romanian Patriarchate was allegedly forbidden.
>
> It has been reported that, on 8 October 1992, the Metropolitanate of Bessarabia deposited its statutes of organization and operation with the authorities in Chisinau. Two favourable decisions were said to have been rendered on 28 October 1992, in that connection. However, no follow-up action has reportedly been taken since then, thus rendering worship in the Metropolitanate of Bessarabia illegal and preventing the believers from practising their religion freely, openly and as a congregation. The adoption of this measure by the authorities is said to contravene the law of the Republic of Moldova concerning public worship, which was passed on 24 March 1992.
>
> The Special Rapporteur has also been informed that threats of vengeance and murder were made in the local press against the members of the religious community belonging to the Metropolitanate of Bessarabia."

70. On 12 October 1993, the Moldovan Government sent its comments on the above-mentioned communication which had been transmitted to it by the Special Rapporteur:

> "The Government of the Republic of Moldova has examined the note concerning the application made by the administration of the Orthodox Metropolitanate of Bessarabia (ancient rite) and emphasizes the following facts:

The Government of the Republic of Moldova does not place any obstacles in the way of the registration of the religious body mentioned above, contrary to what its followers assert. For the registration of this Metropolitanate, its founders were asked, in accordance with the legal provisions in force, to provide additional explanations about the following three matters of principle:

1. They were asked for documents concerning the legal constitution in 1925 of the Orthodox Metropolitanate of Bessarabia (ancient rite) which would have given the Government the legal right to reactivate the Metropolitanate in question. However, the founders have not submitted these documents. Disregarding certain provisions of the law governing public worship, and the position of the present leadership of the Moldovan Orthodox Church and of the believers, a group of followers of the Metropolitanate made application of their own accord to the Patriarchate of the neighbouring State, Romania, to proclaim and reactivate the former Orthodox Metropolitanate of Bessarabia.

The result is that, in satisfying the grievances of this group, the Romanian Patriarchate and its Holy Synod, by the Act of 19 December 1992, have caused a great wave of discontent and even discord within our Church.

2. Since the Orthodox Metropolitanate of Bessarabia (old rite), pursuant to the draft statutes submitted to the Government, declares that it is the rightful successor to the pre-war Metropolitanate, with all the consequences deriving from that legal status, and taking into account the historical factors, especially the fact that from 1808 to the present time, the Moldovan Orthodox Church has been under the ecclesiastical domination of the Church of Constantinople, the Russian Patriarchate and the Romanian Patriarchate, international expert opinion is now necessary to establish the truth about the problem of the ownership of the property and other entitlements of our present Church.

Should the State legalize the Orthodox Metropolitanate of Bessarabia (old rite), the leadership of the latter will make sustained efforts to extend its influence over all of the parishes and over the property of the whole Church as it now exists. That would give rise to considerable resistance on the part of the present authorities of the Orthodox Church of Moldova as well as the clergy and congregation. Thus, the serious consequences of these conflicts would be inevitable and difficult to assess in all spheres of life of the Republic.

3. Together with the draft statutes of organization and operation of the Orthodox Metropolitanate of Bessarabia (old rite), the Government simultaneously received many official notes of protest from the legal administration of the Moldovan Orthodox Church, which had the backing of numerous representatives of the clergy and congregation. These notes state that the application for the reactivation of the Metropolitanate of Bessarabia is signed

> by former clergymen who had been forbidden to officiate at the divine service or who had even been previously dismissed by high-ranking organs of the Moldovan Orthodox Church and had therefore been deprived of the moral and legal right to preach in that church. Thus, these statements claim that legalization of this Metropolitanate by the Government of the Republic of Moldova would constitute a serious violation of cannon law. We think that any such interference by the State in these problems would have a destabilizing effect.
>
> In view of the situation created, the Government of Moldova has taken a number of measures to find the necessary consensus and to settle the conflict, but at this stage, preliminary preparations are being made and negotiations are under way with various Church authorities. The Russian Patriarchate of Moscow and the Romanian Patriarchate of Bucharest have been asked on various occasions for sound arguments and constructive and carefully considered proposals so that a decision can be taken on the future of the Moldovan Orthodox Church. At the moment, proposals which could remedy the situation are being awaited, but the authorities in question have chosen to adopt a wait-and-see attitude or to make accusations.
>
> Our feeling on this difficult and sensitive matter is that the leaders have no right to force things, to hurry, to be partial or to disregard certain legal and ecclesiastical aspects of the problem.
>
> Please accept the sincere assurances of our highest consideration and of the fact that the Government of the Republic of Moldova will rule in favour of an autonomous, autocephalous and upright Church that would function only within the borders of the territory of our State, where tranquillity would prevail and would enhance the purity and spiritual peace of the believers."

Romania

71. In a communication dated 18 September 1992, addressed to the Government of Romania (E/CN.4/1993/62, para. 50), the Special Rapporteur transmitted the following information:

> "A number of recent reports have drawn attention to violations of human rights, especially against the Uniate Church. According to the sources, the Uniate Church regards itself as the national Church on a par with the Orthodox Church, in accordance with the 1923 Romanian Constitution. Under Act No. 358/1948, whose repeal the Uniate Church is calling for, it has been dispossessed of its property, which includes 1,800 churches, cemeteries, chapels and parish houses and 4 monasteries that are now in the possession of the Orthodox Church, as well as 5 episcopal palaces, 3 religious instruction institutions, 7 monasteries, 20 secondary schools, 6 hospitals, 4 orphanages, 3 retirement homes, land, libraries, museums and many religious and cultural objects that are in the hands of the State, all in a total of 2,000 parishes.

The Uniate Church considers that it has been deprived of the right to a full religious life and the right to freedom of religion because the 1948 expropriation is continuing. Since there are no places of worship, masses, for which basic equipment is lacking, are celebrated in parks, in private homes, in squares in front of former Uniate churches and in chapels located in cemeteries.

It has been alleged that a campaign of intimidation has been unleashed against members of the Uniate Church by persons who identify with the Orthodox cause and that priests and their families have been attacked and believers injured. According to the sources, threats continue to be made every day, but the police take no action on complaints by Uniate believers. Persecution and acts of violence designed to intimidate the population allegedly also took place before the 1992 census.

According to other allegations, Mr. Vasile Belea, a representative of the Uniate Church in the town of Spermezeu, Department of Bistritza-Näsäud, applied to the local Police Chief, Mr. Ioan Hrusan, on 20 October 1991, for permission to reopen a former church belonging to the Uniate community so that religious services might be celebrated in it once again. In reply to this request, the Police Chief, who happens to be the brother of the priest of the Orthodox Church in the same town, allegedly beat Mr. Belea up and threw him out of the police station.

According to the information received, this is not an isolated incident. Some persons were allegedly incited by priests of the Orthodox Church to commit many attacks in the territory of Transylvania, always against members of the Uniate Church. One of these violent incidents reportedly took place in the village of Visuia, where Father Zagreanu was requested to celebrate mass in honour of St. Dimitri on 26 October 1991. He is said to have informed the local police that he intended to celebrate the mass at the Ariesan family farm in the same village so that the police would guarantee that the ceremony was held peacefully. When he was on his way to the farm, 12 persons who were drunk burst out of the Orthodox church and beat him violently on the head and jaw and threw him back and forth until he fell on the ground. They went on kicking him in the stomach and kidneys. Women on their way to the mass were allegedly also attacked.

In the village of Margäu, district of Cluj, Father Ioan Bota was allegedly attacked in his church when he was celebrating mass on 6 January 1992. He had to leave the church by the door behind the altar because his attackers were waiting for him in front of the main door.

On 8 January 1992, the police in the village of Filea were allegedly requested to keep watch on Mrs. Silvia Tartan's home, where Father Pius Miclaus was celebrating mass. A gang of attackers with shovels and pitchforks allegedly threatened him until after midnight and the woman guarding the door of the house was injured when the blade of a knife went through the door. The mayor of Ciurila, which Filea is part of, went to the house with the wife of the Orthodox priest and was allegedly threatened and prevented from taking any action.

> The Uniate chapel in Mrs. Eugenia Darjan's house in the village of Iclod was allegedly desecrated on 12 January 1992 by four persons whom the owner recognized. Icons were taken, religious books were thrown on the floor and the table that was used as an altar was desecrated. A complaint was filed with the local police. The police force did not intervene in any of the above-mentioned cases."

72. On 10 February 1993, the Permanent Mission of Romania to the United Nations Office at Geneva transmitted to the Special Rapporteur the following information concerning the above allegations:

> "The Constitution of Romania, which was approved by referendum on 8 December 1991, guarantees religious freedom in Romania. Accordingly, article 29 stipulates that '(...) freedom of thought and opinion, and freedom of religion may not be restricted in any way. No one may be forced to adopt an opinion or espouse a religious belief contrary to his convictions. ... Religious denominations shall be free and organize themselves in accordance with their own statutes and in keeping with the law. As regards relations between the denominations, all forms, means, acts or actions of religious discord are prohibited. Religious denominations shall be autonomous from the State and shall enjoy its support ...'.
>
> Article 30 stipulates that incitement to religious hatred is prohibited by law. The principles of religious freedom contained in the Constitution are specified and given shape in the bill relating to religions and liberties in Romania, which will be put before the new Parliament, elected on 27 September 1992, for consideration and adoption.
>
> To protect these principles, the Penal Code lays down penalties for all persons who endeavour to prevent the clergy and believers from enjoying the religious rights and freedoms guaranteed by the Constitution and by other legislation. In this connection, article 318 stipulates that 'restricting or disturbing freedom to engage in any form of religious worship organized and practised in accordance with the law shall be punished by between one and six months' imprisonment or by a fine. Forcing a person to take part in religious worship or to perform a religious ceremony connected with worship shall carry the same penalty.'
>
> 1. Subsequent to the events of December 1989, one of the first measures adopted by the Provisional Council of National Union was Decree-Law No. 9, dated 31 December 1989, abrogating Decree No. 358/1984, and officially recognizing the Romanian Church United with Rome (Greek-Catholic). This Church is organized and operates in accordance with the general legal regime applicable to religious denominations in Romania.
>
> Decree-Law No. 126, of 24 April 1990, was adopted to settle the matter of the property formerly owned by the Romanian Church United with Rome. It stipulates that 'the assets that were taken over by the State under Decree No. 358/1948 and are currently State property are, with the exception of the landed estates, hereby returned, to the Romanian Church United with Rome in their present condition' ... (art. 2). It is also

specified (art. 3) that the legal status of churches and of church halls taken over by the Romanian Orthodox Church would be established by a 'joint committee made up of representatives of the clergy of both denomination', and taking into account 'the wishes of parishioners in the communities in possession of the property'. The same legislation stipulates that, in localities where the number of places of worship is insufficient for the number of believers, the State will assist the construction of new places of worship, making the necessary land and money available for this purpose.

In conformity with Decree No. 129/1990, a mixed commission, comprising representatives of the Government and of the Romanian Church United with Rome was established and drew up an inventory of the Church's former property currently owned by the State. As a consequence, 80 buildings and plots of land ... were identified and restored to the Romanian Church United with Rome by Government decision No. 466, dated 19 August 1992.

The restitution of churches which used to belong to the Romanian Church United with Rome and which are currently in the possession of the Romanian Orthodox Church will proceed in conformity with article 3 of Decree No. 126/1990; i.e. the believers will be consulted and, subject to their majority opinion, it will be decided whether the church remains the property of the Orthodox Church or is turned over to the Greek-Catholic Church. Orthodox bishops and priests believe that the solution to this problem is a matter for the two Churches alone; they are categorically opposed to the idea that the State should become involved.

At present, following representations made by parishioners, priests or prelates, the Romanian Church United with Rome has the exclusive use of 56 churches which it owned until 1948. A number of Greek-Catholic priests alternately celebrate divine worship in Orthodox churches.

Out of a desire to obtain places of worship as quickly as possible, some priests and groups of Greek-Catholic believers have attempted to enter churches and parish halls by force, thereby provoking a reaction on the part of Orthodox believers, who have requested compliance with Decree No. 126/1990. In these circumstances, some tension has arisen between believers of the two Churches.

In order to avert such situations and lessen the tension, mediating commissions comprising representatives of the State Secretariat for Worship and of local and departmental public administrative agencies have been established.

The commissions have requested both Orthodox and Greek-Catholic priests, archpriests and bishops to settle the problem of churches and parish halls peacefully and in accordance with the law through brotherly Christian dialogue. The same appeal has been made to both Churches by the political parties and the mass media.

It should be emphasized that most Orthodox and Greek-Catholic believers have realized that a solution to the problem of churches and parish halls can only be found through cooperation and dialogue.

In many localities where Orthodox and Greek-Catholic believers live, ecumenical cooperation and calm have begun to prevail.

The State Secretariat for Religion, together with local and central administrative agencies, will persist in their efforts to encourage interdenominational dialogue in order to ensure equal rights and freedoms for the Romanian Church United with Rome and for any other Church established in Romania, without discrimination. Measures to prevent acts of intolerance and discrimination on religious grounds will subsequently be adopted, in strict compliance with national law.

2. As regards the specific allegations mentioned in the annex, the following information has been provided by the Office of the Attorney-General of Romania and the Ministry of the Interior - General Police Inspectorate:

(a) On 20 December 1991, Mr. Vasile Belea, 58 years of age, unemployed, of Spermezeu, Bistritza-Năsăud Department, publicly stated his intention of breaking the padlock on a church in his commune which previously belonged to the Greek-Catholic Church. In order to avert a potential conflict between the inhabitants of the commune, the local police chief, Ioan Hrusan, who had been informed of the intention of Mr. Vasile Belea and others forcefully to enter the commune's Orthodox church in order to celebrate a Greek-Catholic mass, asked Mr. Vasile Belea to come to the police station, where, without resorting to violence, he informed him of the consequences of breaking the law. Subsequent to Mr. Vasile Belea's complaint that officer Ioan Hrusan had attacked him, the Ministry of the Interior's agencies carried out investigations which failed to bear out his allegations. They also found that, according to the records of the Spermezeu dispensary, he had been diagnosed as suffering from 'oligophrenia'. He may, if he wishes, request the prosecutor to carry out a criminal investigation against the police officer. In view of the above, this case does not raise the problem of religious freedom.

(b) On 26 October 1991, Mr. Iacob Zagreanu, an inhabitant of the commune of Sieu Magherus in Bistritza-Năsăud Department and a retiree, who was a Greek-Catholic priest until 1948, went to the commune of Micestii de Cimpie in the village of Visuia in the same Department to reorganize Greek-Catholic worship and to hold a religious service. On this occasion, a group of some 10 to 15 individuals insulted him and asked him to leave the locality, while Telina Dumitru, who was under the influence of alcohol, attacked him. The conflict ended when the police intervened, fined Dumitru Telina and cautioned Ioan Loja, Ioan Moldovan, Ioan Ariesan and Nicole Beldean, pursuant to Act No. 61/1991.

Mr. Iacob Zagreanu was informed of the measures adopted and of the possibility for him to lodge a complaint with the competent judicial authorities if he so wished. He said that he had no intention of doing so.

(c) On 6 January 1992, in the commune of Margău, Cluj Department, where there is only one Orthodox church, the Greek-Catholic priest Ioan Bota attempted to hold a service, but was prevented from doing so by a number of Orthodox inhabitants who insulted him and demanded that he stop holding services in the Orthodox church for the 15 Greek-Catholic believers. He was not attacked. Since January 1992 there have been no further incidents in Margău between the two congregations.

(d) On 6 January 1992 in the village of Filea de Jos, Ciurila commune, Cluj Department, after holding a service in the home of Mrs. Silvia Tartan, two Greek-Catholic priests, Pius Miclaus and Valerian Miclaus, got into an argument with a number of followers of the Orthodox faith who were in the village centre for an electoral meeting with the mayoral candidate. The Orthodox believers asked the Greek-Catholic priests to stop holding services in their village and dispersed after the mayor had intervened. It should be mentioned that the priests were not attacked and the religious service was neither prevented or disturbed. There have been no further arguments. The woman guarding the door was not attacked, but injured herself on a nail protruding from the grille. Subsequent to the complaint by Pius Miclaus, the local prosecution service in Turda carried out a criminal investigation into the offences of unlawful restriction on freedom and violation of the home and on 20 April 1992 decided that there were no grounds for initiating criminal proceedings on the basis of the evidence adduced, which showed that no offence had been committed, and that the allegations were uncorroborated.

(e) On 12 January 1992, Ioan Vadan, Ioan Morar and Nicolae Dirjan entered a room in the building belonging to Mrs. Eugenia Darjan, located in the commune of Iclod, Cluj Department, where there was a makeshift Greek-Catholic chapel from which they removed a number of icons and other religious objects. The conflict came to an end when the local police intervened, returned the objects to the chapel and ascertained that no damage had been caused, with the exception of the destruction of a small statue which was subsequently paid for by the three inhabitants. Investigations against them were initiated for the offences of violation of the home and criminal damage. The criminal file, No. 3/1992, has been submitted to the prosecution service in Dej for the investigation to be completed and the appropriate legal steps to be taken."

73. In a communication dated 31 August 1993, addressed to the Government of Romania, the Special Rapporteur transmitted the following information:

"According to information received, the property of the Romanian Uniate Church (Greek-Catholic), comprising, inter alia, places of worship, seminaries, schools and cemeteries, has not been returned. It has also been alleged that the persecution against Greek-Catholic priests, referred to by the Special Rapporteur in his report to the Commission on Human Rights at its forty-ninth session (E/CN.4/1993/62, para. 50), persists and that priests are forced to hold mass in the street.

> By Decree No. 9/1989, the Government of Romania is reported to have recognized the legal existence of the Romanian Uniate Church which had been abolished by Decree No. 358/1948. However, Decree No. 126/1990 only made provision for the restitution of property in the State's possession, and failed to address the problem of confiscation of ecclesiastical property and its transfer to the Romanian Orthodox Church. There has still been no redress for the injury caused to the Uniate Church, nor has it yet been compensated for its losses.
>
> In 1992, the Government allegedly adopted a decision which provided for the physical return of the property in the State's possession provided that it was unencumbered, and the legal restitution of the civil property in the hands of the State provided that it had not been modified. So far, the Romanian Uniate Church has not recovered its property. Furthermore, the Romanian authorities have allegedly taken no steps to return the property confiscated and allotted in the past to the Romanian Orthodox Church."

74. On 17 November 1993, the Permanent Mission of Romania to the United Nations Office at Geneva sent its observations on the above communication transmitted to it by the Special Rapporteur:

> "Since the revolution of December 1989, the Romanian authorities have shown their abiding interest in regulating the situation of the Romanian Church United with Rome (RCUR). One of the first measures adopted by the Council of the National Salvation Front was officially to recognize RCUR (Decree No. 9/31 December 1989, which abrogated Decree No. 358/1948).
>
> With a view to regulating the legal situation concerning property that formerly belonged to RCUR, the Provisional Council of National Union (CPUN) adopted Decree-Law No. 126/1990, which states that 'the assets that were taken over by the State under Decree No. 358/1948 and are currently State property are, with the exception of the landed estates, hereby returned to RCUR in their present condition'. In accordance with this instrument, the Government issued decision No. 466/1992 under which 80 buildings and plots of urban land were returned to RCUR. Consequently, the allegation made by the former United Nations Special Rapporteur that RCUR does not have possession of its assets is groundless.
>
> Equally without foundation is the assertion that Decree No. 126/1990 provided only for the restitution of ecclesiastical property which had been in the hands of the State and did not regulate the status of ecclesiastical property allocated to the Romanian Orthodox Church. The text of Decree-Law No. 126/1990 is very precise, stating that 'the legal status of churches and church halls taken over by the Romanian Orthodox Church will be established by a joint committee made up of representatives of the clergy of both denominations, taking into account the wishes of parishioners in the communities in possession of the property'.

Despite the difficulties in applying this provision, RCUR has been able to take possession of 80 churches.

Furthermore, to solve the problem of the lack of churches, the State Secretariat for Religion, and local State institutions, have assisted RCUR by assigning to it free of charge land for the building of new churches. To help expedite their construction, the State Secretariat for Religion has granted financial assistance totalling more than 10 million lei since 1990."

Sudan

75. In a communication dated 7 December 1993, addressed to the Government of the Sudan, the Special Rapporteur transmitted the following information:

"According to information received by the Special Rapporteur, repressive measures against the non-Muslim populations in the Sudan have worsened following the military coup d'état of 30 June 1989, and particularly since the Sudanese authorities have been applying the Shariah throughout the whole country, including the southern regions, which have a mainly Christian and animist population.

During population transfers which have taken place in the mountainous areas of Nubia, in southern Kordofan, some 25,000 Nubian children are reported to have been taken from their parents and held for a week in camps around El Obeid, the regional capital. During this period the boys are reported to have been circumcised in a public ceremony.

There are reports of certain exactions committed during the summer of 1992 against Nubian Christian communities in southern Sudan. One of these people, Kamal Tutu, of the Moro tribe, who was working for his church, is said to have witnessed the torturing of members of his community by the governmental forces, after which they were burnt in their church. Shortly after this, bound hand and foot, he was thrown by the soldiers into the smoking ruins of the church.

In the schools children are forced to study the Islamic faith on pain of corporal punishment or expulsion from school. Furthermore, in the food distribution centres, the most vulnerable sectors of the population - children, women and elderly people - are said to be forced to learn the Koran in order to obtain food rations.

It is reported that a young deaconess was arrested by the police in May 1993 because her dress did not conform to Islamic law. She was sentenced to 25 strokes of the lash, but the sentence was commuted to a fine corresponding to three days' wages.

The Anglican Bishop, Rev. Peter El-Birth, is reported to have been whipped in public in July 1993 by order of an Islamic court for having committed adultery, which the accused denied. He is also reported to have stated that the court did not allow him to say a word in his defence.

> A report of October 1993 described the fate of Pastor Matta Boush, who was sentenced to imprisonment for 30 years for having sheltered four members of the Sudanese People's Liberation Army (SPLA) in his home. He is said to be now in detention in Omar Al Mokhtar prison in Khartoum. His term of imprisonment is said to have been reduced from 30 to 20 years, which means that he will in fact be freed within two-and-a-half years.
>
> However, many obstacles are said to be hampering the work of local priests and missionaries who are endeavouring to bring moral and spiritual comfort to the population near El Obeid and in the Nubian mountain area. Several members of the clergy are said to have been arrested while engaged in religious activities, interrogated by the security services and held for periods ranging from a few weeks to several months. Certain foreign missionaries are said to have been denied permission to enter the Sudan and work there or to have experienced difficulty in securing renewal of their Sudanese residence permits."

76. On 12 December 1993, the Permanent Mission of the Republic of the Sudan to the United Nations Office at Geneva sent its observations concerning the above communication which had been transmitted to it by the Special Rapporteur:

> "With reference to your note concerning allegations of intolerance and discrimination based on religion or belief I have the honour to state the following:
>
> 1. We note with regret that the Special Rapporteur continues to repeat the allegations that he received from sources hostile to the Government of the Sudan without attempting to verify them.
>
> 2. The Government has declared and continues to declare that Sharia law does not apply to the three southern states. There has never been any complaint from any quarter whatsoever to the contrary, yet the Special Rapporteur has chosen to accept as the truth the allegations made by sources which are obviously hostile to the Government and have yet again made use of this issue to defend certain privileges which they have enjoyed in the past to the detriment of the freedom of opinion or belief of other religious sects.
>
> 3. We find the allegations that the authorities have taken 25,000 children from their parents, held them for a week in camps around El Obeid and had them circumcised in a public ceremony completely absurd and in contradiction with the manners and values which the Sudanese people hold dear.
>
> 4. Allegations of torturing priests and burning churches have been made in the past and were proved false and moreover blasphemous to the tenets and teachings of Islam, which prohibits such acts under any circumstances. All matters of religious concern regarding the different sects are discussed and dealt with by direct contacts and

> dialogue between the leaders of the Christian sects in question and the authorities. It suffices to point to the contacts at the highest level between Muslim and Christian leaders which have taken place in an atmosphere of friendliness and cooperation.
>
> 5. As for the teaching of the Quran to groups of people in the south and in the Nuba mountains, we have to point out that according to information gathered by reliable sources, a large proportion of the population of the Nuba mountains is Muslim, and that all the attempts in the past by missionaries to force them into Christianity have failed. As for the southern states the adherents of Islam total 18 per cent of the population of this region, while 17 per cent adhere to Christianity, and the rest of the population follow the ancient religion of their ancestors. The teaching of the Quran in this instance is carried out among the Muslim population, which had been denied this privilege under foreign rule.
>
> 6. The Special Rapporteur is kindly requested to reflect these facts in his future reports if they are to be taken as credible and factual."

77. The Special Rapporteur would like to inform the Government of the Sudan that he intends neither to reproduce accusations nor to reflect any particular attitude. His role is to consider incidents and government decisions reported in all regions of the world which are incompatible with the provisions of the 1981 Declaration and to recommend the steps which should be taken, where appropriate, to remedy them. The allegations which he transmits to Governments are unconfirmed and taken from many different sources. It is on this account that he requests Governments to enlighten him by means of their views and observations on the allegations submitted to them. The Government of the Sudan is therefore kindly requested to make such observations as it considers useful in the light of the material submitted for its consideration, including the specific facts and cases. The Special Rapporteur intends to display patience and level-headedness, but also determination, so as to contribute - with the help of the parties concerned - to the implementation of, and compliance with, all provisions of the 1981 Declaration.

Syrian Arab Republic

78. In a communication dated 31 August 1993, addressed to the Government of Syria, the Special Rapporteur transmitted the following information:

> "According to information received, and contrary to the directives issued in April 1992 by the authorities, members of the Syrian Jewish community are still being subjected to restrictions on foreign travel. Some Jewish families have allegedly obtained passports, while others for no apparent reason have not been able to do so. Furthermore, members of the Jewish community are still apparently required to obtain a prior travel authorization from the 'Muhkabarat' secret police. Since October 1992, the authorities have reportedly even ceased to issue them with travel permits."

Viet Nam

79. In a communication dated 10 August 1992, addressed to the Government of Viet Nam, the Special Rapporteur transmitted the following information (E/CN.4/1993/62, para. 68):

> "According to the information received, the practice of religion in Viet Nam is subjected to severe restrictions. It has been reported that no one can openly practise religion as a priest or minister without the Government's approval of candidates for ordination and enrolment in seminaries. Restrictions in the exercise of religious freedoms are said to have affected the holding of religious services, gatherings and retreats, religious education and the publication of religious materials. It has also been reported that sermons are subjected to Government approval and that any type of proselytizing is prohibited. The Government has allegedly made attempts to unify religious groups by establishing State-sponsored religious associations such as the Committee for the Solidarity of Patriotic Vietnamese Catholics, the Union of Patriotic Priests, the Protestant Association and the Viet Nam Buddhist Church, the only officially recognized Buddhist organization.
>
> It has been alleged that growing numbers of clergy as well as religious activists have been imprisoned since 1989 because of their religious beliefs. It has also been reported that the Government had launched a particularly intensive campaign against religious leaders between April and September 1990.
>
> A new decree on the regulation of religious activities passed in May 1991 reportedly stipulates that any nominations to religious office, travel abroad by members of the Vietnamese clergy and visits to Viet Nam by representatives of foreign religious organizations must be approved by the Government. The same decree is said to apply to the holding of religious meetings such as regional and national conferences and the opening of religious schools and seminaries. Catholic priests, nuns and lay persons reportedly may be assigned by the authorities to religious functions and duties at the local level without prior consultation with the Roman Catholic church hierarchy.
>
> In addition, the Special Rapporteur has been informed that numerous members of the clergy belonging to various religious denominations have been imprisoned since 1975. This is said to particularly be the case with Roman Catholic priests and Buddhist monks as well as Protestant pastors, who are said to have been persecuted systematically and placed in arbitrary detention for prolonged periods as political prisoners in re-education and labour camps. Military chaplains allegedly were also sent to such camps after 1975, at a time when all foreign missionaries were expelled from the country, numerous places of worship and religious presses closed and religious property confiscated. Large numbers of religious schools, seminaries, hospitals and orphanages were reportedly also closed or nationalized, as was the case with the Evangelical Nha Trang Seminary.

It is believed that at least 40 re-education and labour camps were in existence at the beginning of 1990 and that at least 60 prisoners of conscience are detained in Viet Nam on account of their religious beliefs. The conditions prevailing in such camps have been described as extremely harsh, including hard labour, torture and inhuman treatment, lack of food resulting in malnutrition, illness and lengthy indoctrination sessions. For example, Buddhist monk Yoshida Ganshin is said to have lost the use of his legs after 13 years of incarceration in a re-education camp where he was subjected to electric shock torture.

It has further been alleged that prisoners who are ill and unable to work are not allowed to eat normal rations since their working capacity is diminished. Handicapped persons who work less are said to be also forced to eat less. For instance, they are allegedly allowed only 12 kilograms of rice per month instead of the subsistence ration of 15 kilograms of rice which most prisoners are said to receive. It has also been alleged that many prisoners are not allowed to receive packages of food sent by their families.

According to the sources, the aforementioned prisoners of conscience are mixed with common criminals in some cases. In many instances, no doctors or medicines are allegedly available for the prisoners who are forced to resort to the use of traditional medicines such as herbs and roots, when they are available. As a result of the above, inmates are said to die at the rate of 10 to 15 per cent a year.

According to the information received, numerous priests and religious believers as well as persons who are said to have been critical of the church hierarchy and the Government, are currently alleged to be detained in a type of administrative detention which does not involve a formal trial or sentencing. The majority of these persons is reportedly detained in labour and re-education camps. The situation of a number of these persons has been summarized as follows:

Cases involving Protestant clergy and religious believers:

Rev. Tran Dinh Ai, the leader of a Protestant movement in southern Viet Nam, was arrested on 27 February 1991, allegedly because of his contacts with the overseas Pentecostal church. Rev. Ai was reportedly sentenced to three years of administrative detention, without going on trial or being convicted. He is said to have initially been detained at Phan-dinh-Luu prison in Ho Chi Minh City and was not allowed to receive family visits for four months. In November, he was moved to a labour camp in Song Be province and is reported to be suffering from severe headaches, back pain and a liver infection.

Pastor R'Mah Boi, a young Christian leader in the highland districts of Chu Pa, Gia Lai, and Kontum, belongs to the Jerai minority. He was arrested in August 1989 reportedly for organizing a working party of about 200 tribesmen of Christian faith to help 2 tribal elders who had been ordered by officials to harvest a large rice field when they were caught holding church meetings. Pastor Boi is said to have been detained and imprisoned on the basis of Administrative Law No. 135. He has reportedly not been formally tried or convicted and is believed to be in arbitrary detention at prison camp A-20 in Dong Xuan, Phu Yen province.

Pastor Vo Minh Hung, a minister from Pleiku, is said to have been arrested for the third time in December 1989 during a church meeting in his home. He was reportedly detained for the first time for 1 week and the second time for 3 months (first 7 days for interrogation and re-education). Pastor Hung, who has not been formally tried or convicted, is believed to be held in administrative detention at the re-education/labour camp A-20 in Dong Xuan, in Phu Yen province.

Pastor Rmah Loan, a minister belonging to the Mnong minority, was in charge of 14 congregations in the Darlac region. He was arrested in June 1991 for unknown reasons and is believed to be held in administrative detention at a prison at Banmethuot, Darlac province, reportedly without formal trial or conviction.

Pastor Tran The Thien Phuoc, the leader of a Protestant church in Ho Chi Minh City, was arrested in November 1989 while on his way to a meeting with other Christians and was allegedly charged with 'disturbing the peace'. He has lived in Cay Truong II, Ben Cat, Song Be province. Pastor Phuoc is reportedly detained in a re-education/labour camp for the third time, and is serving a three-year administrative detention sentence at a camp near Tong Le Chan, Song Be province, although he has never been formally tried or convicted.

Pastor Ya Tiem, a minister belonging to the Koho minority from the highlands, was arrested in June 1991 for unknown reasons. He is believed to be held in administrative detention in a prison in Dalat, Lam Dong province, although he has reportedly not been formally tried or convicted.

Rev. Dinh Thien Tu, the minister of the largest independent Protestant movement in Viet Nam which reportedly comprises several thousand worshippers, was arrested on 22 February 1991 in Ho Chi Minh City, shortly after midday, allegedly for operating a social work programme without the approval of the Government and for alleged unauthorized contacts with foreign Christian groups. The arrest warrant, presented to his wife in the afternoon, allegedly charged him with 'using religion as a pretext for disturbing the peace'. His house was searched and documents were confiscated. He is believed to be under a three-year administrative detention sentence, although he has not been formally tried or convicted. According to the information received, Rev. Tu was initially detained at the Phan-dinh-Luu prison, Gia Dinh, in Ho Chi Minh City and was not allowed to receive family visits for four months. He is believed to have been moved at the end of November 1991 to a labour camp in the Song Be province. Rev. Tu, who has been accused of 'teaching false theories and not observing the rules and regulations of the church', was reportedly suspended from all pastoral duties and evicted from the church parsonage.

Pastor Tran Xuan Tu, a minister from Vo Dat, The Duc Linh district of Thuan Hai province, is said to have been forced to remove the cross from his church, which was subsequently occupied by the authorities. He was initially arrested in 1985 during a church meeting held in his home and reportedly served a three-year administrative detention sentence at a re-education/labour camp in Vo Dat. In 1988, he is believed to have been given an additional three-year administrative detention sentence at the same camp in Vo Dat.

Ha Hak, a minister belonging to the Koho highlands minority, is reported to have been imprisoned in December 1991.

Tran Mai, the leader of a Protestant church in southern Viet Nam, who is in his mid-thirties, was arrested in Ho Chi Minh City on 31 October 1991 and alleged to have been charged with 'using religious activities to fight the Government'. He is reportedly serving a three-year administrative detention sentence in a labour camp at Tong Le Chan, Song Be province. According to the same sources, he has not been formally tried or convicted.

Ha Wan, a minister belonging to the Koho minority, has reportedly been detained in a prison in Dam Dong province since December 1991.

Rev. Nguyen Ngoc Anh, has been detained since December 1989, allegedly without having been formally tried or convicted. He is said to have been beaten on several occasions.

Rev. Dang Van Sung, who served as missionary with the Xtieng tribal minority, has reportedly been detained since 1975 in the Phuoc Long district. No news of him has been received since that time.

Pastor Nguyen Chu and Pastor A Uot were reportedly arrested between 1989 and 1990 and are reportedly detained without trial.

Pastors Phan Quang Thieu, Le Quang Trung, Vu Minx Xuan and Hoang Van Phung are alleged to have been arrested in 1991, in Ho Chi Minh City and in the central highlands on charges of, inter alia, 'pursuing religious activities without permission', and are reportedly detained on the basis of a People's Committee administrative order.

Pastor Ai Nguyen has reportedly also been arrested for preaching without a licence and is said to have been sentenced to nine years of imprisonment in a labour camp.

Mr. Minh and Mr. Son, Christian elders, held meetings for the members of the closed Than My church. According to the information received, they were arrested in April 1990 at Don Duong, near Dalat.

Mr. Y De and Mr. Y Thang, have been detained since 1989, reportedly for their religious activities.

Twenty-four Christians from the Jeh tribe have reportedly been imprisoned since the beginning of 1990 in Dak Lay, Gia Lai province.

Rev. Vo Xuan, a Protestant church leader in southern Viet Nam, was allegedly taken into custody on 4 December 1989 for meeting with other Christians and was charged with 'disturbing the peace'. Shortly before his detention, he reportedly baptized several persons. Rev. Xuan reportedly refused to sign a false confession and was held in administrative detention in a security prison in Thuan Hai province, without being allowed to receive family visits for four months, until April 1990. He is reported not to have been formally tried or convicted and was released in December 1991. According to the sources, Rev. Xuan had previously spent 13 years in a re-education camp until April 1987 because he used to be a military chaplain in the South Vietnamese army.

Phu Anh, aged 40, was arrested in early August 1991 in Hue, allegedly on charges of distributing contraband Bibles and other religious literature. He is said to have been held in administrative detention in Danang and was reportedly released on 20 November. He is still thought to be under police investigation.

Vo Van Lac, the leader of a Protestant church in southern Viet Nam, is said to have been taken into police custody in June 1991 and questioned with regard to his relations with foreign Christian organizations. He was released in July 1991 and is still believed to be under police surveillance.

Bui Thanh Se, the leader of a Protestant church in southern Viet Nam, was arrested in late June 1991, reportedly on suspicion of having links with foreign Christian organizations. He was released in July but is reported to be under 'close police surveillance'.

Cases involving Roman Catholic clergy and religious believers:

Tran Ba Loc has been detained in a re-education camp at Nhu Xuan, Thanh Hoa, since 1975, reportedly without having been formally tried or convicted. It is believed that he has served as a military chaplain in the South Vietnamese army.

Nguyen Khac Nghieu, was arrested in 1975 and is reportedly detained at the 80A, TD63/TP re-education camp at Nhu Xuan, Thanh Hoa province. He is believed not to have been formally tried or convicted.

Nguyen Thai Sanh, a former military chaplain, was arrested in 1975 and is believed to be detained in a re-education camp in Thanh Hoa province. He is reported not to have been formally tried or convicted.

(Thadeus) Nguyen Van Ly, aged 45, is the former priest of the Doc So parish, near Hue. He is said to have been arrested in 1983 and tried at the Hue Peoples' Court, on charges of 'opposing the revolution and attempting to destroy the people's unity'. He was reportedly sentenced to 10 years' imprisonment and is currently detained at the 'Three Stars' prison in Ha Nam Ninh province.

Nguyen Khac Chinh, a 69-year-old lawyer, belonged to a group of Catholic intellectuals in South Viet Nam before 1975. He was reportedly arrested on 27 December 1975 and has remained imprisoned in Trai Cai Tao Xuan Phuoc, Khu E, Doi 17A, Hom Tru, in Phu Khanh province. He is believed to have never been formally tried or convicted.

The following Roman Catholic monks and priests reportedly also continue to be imprisoned:

- Pham Ngoc Chi (Hiep)
- Paul Nguyen Chau Dat
- Luke Vo Son Ha
- Boniface Hong Thien Gian (Thinh)
- Mark Tran Khac Kinh
- John B Pham Ngoc Lien (Tri)
- John E Mai Huu Nghi
- Bernard Nguyen Thien Phung
- Michael Nguyen Minh Quan
- Quoc (Ban)
- Hilary Do Tri Tam (Thuyen)
- Thadeus Dinh Tri Thuc (Hieu)
- Stephen Chan Tin
- Dominic Tran Dinh Thu
- John Doan Phu Xuan
- Pius Vu Thanh Hai (Dat)
- Nguyen Ngoc Lan (former priest).

Father Nguyen Van De and Sister Nguyen Thi Nhi were reportedly arrested in August 1990 together with nine other Catholic leaders and charged with 'spreading propaganda aimed at falsely portraying Viet Nam's religious policy'. They were reportedly sentenced to between 2 and 10 years in prison.

Sister Tran Thbi Tri is also allegedly detained because of her religious beliefs.

Cases involving Buddhist monks:

The following Buddhist monks have allegedly been imprisoned, inter alia, on charges of engaging in 'activities aimed at overthrowing the people's Government'. Most of them are believed to be detained in re-education camps in the Phu Khanh, Dong Nai and Thuan Hai provinces:

- Thich Quang Do
- Thich Nguyen Giac
- Thich Duc Nhuan
- Thich Huyen Quang
- Thich Tri Sieu
- Thich Tue Sy
- Thich Thien Tan
- Thich Phuc Vien.

Cases involving members of the Cao Dai and Hoa Hao sects:

According to the information received, 3,500 members of the Cao Dai indigenous Vietnamese religious sect were arrested in Tay Ninh province in June 1990 and charged with 'harbouring reactionary and counter-revolutionary troops'. An additional 1,000 Cao Dai believers were reportedly arrested in the same province two months later. It has also been alleged that members of the Hoa Hao indigenous sect have also been persecuted."

80. On 7 December 1993, the Permanent Mission of the Socialist Republic of Viet Nam to the United Nations Office at Geneva transmitted to the Special Rapporteur a reply from the Ministry of Foreign Affairs concerning the above-mentioned allegations:

"1. The persons referred to below have been released over the years:

Tran Dinh Ai
R'Mah Boi
Vo Minh Hung
Rmah Loan
Tran The Thien Phuoc
Ya Tiem
Dinh Thien Tu
Ha Hak
Tran Mai
Ha Wan
Nguyen Ngoc Anh
Dang Van Sung
Vu Minh Xuan
Phu Anh
Nguyen Van Ly
Nguyen Khac Chinh
Pham Ngoc Chi
Hong Thien Gian
Pham Ngoc Lien
Do Tri Tam
Dinh Tri Thuc
Tran Dinh Thu
Nguyen Ngoc Lan
Thich Quang Do
Thich Duc Nhuan
Thich Huyen Quang
Thich Thien Tan

2. Nguyen Chu has never been arrested or detained.

3. The cases of the other persons mentioned in the list are being considered and will be transmitted as soon as possible.

Under the current regime in Viet Nam, freedom of belief and religion has always been guaranteed and even reinforced by legislation and State plans. In this regard, I would suggest that you refer to note No. 407/TCQT-NG of 1 December 1993 addressed to the United Nations Secretariat (Centre for Human Rights)."

81. In a communication dated 3 December 1993, addressed to the Vietnamese Government, the Special Rapporteur transmitted the following information:

"According to information which has reached the Special Rapporteur, the policy of repression on the part of the Vietnamese authorities vis-à-vis the various religions practised in Viet Nam is continuing.

During the period 1975-1989, the leaders of the main Churches represented in the country, namely, the Unified Buddhist Church of

Viet Nam (representing approximatly 80 per cent of the population of 70 million Vietnamese), the Hoa Hao Buddhist Church (1 million believers), the Cao Dai Church (1 million followers), the Catholic Church (approximately 1 million believers) and the Protestant Church (between 200,000 and 300,000 believers) were allegedly subjected to administrative measures or arrests intended to isolate them from their congregation and restrict their freedom of movement. The Vietnamese authorities reportedly confiscated Church assets and properties and halted numerous cultural and social activities as well as health activities.

They also allegedly set up State Churches or patriotic committees, in parallel to existing Churches, giving them special privileges and powers. Subsequently, specially trained police networks were reportedly given the task of infiltrating the institutional machinery of the Churches.

Some 200 security personnel, trained in 'religious affairs' in Czechoslovakia, were then allegedly placed in various parts of the country to implement a programme to neutralize religious establishments. Buddhist temples, churches and monasteries were reportedly subjected to permanent monitoring. It was during this period, too, that the authorities allegedly made an unsuccessful attempt to set up a second Catholic Church independent of the Vatican.

Following the break-up of the regimes in various Eastern European countries after 1989, the Vietnamese Government reportedly adopted harsher measures to reinforce its control over the Churches in Viet Nam and to prevent the emergence of a popular movement with a religious base. A new decree is said to have been promulgated for this purpose by the authorities on 23 March 1991, instituting even tighter control of the religious activities of the Churches and their congregation. In many cases, at the very time when the Vietnamese Government was endeavouring to establish relations with Western Governments, it allegedly penalized severely evangelical Christians who had had links with Churches and religious groups in the West, or received financial assistance from them. The attitude of the authorities in this regard would seem to have boosted the house church movement in Viet Nam.

More recently, according to information received, torture and other forms of inhuman treatment have been frequently used on persons imprisoned for their religious beliefs, particularly in labour re-education camps. Arbitrary extensions of the sentences of individuals who have actually completed their prison terms are also reported. Moreover, although prisoners' rights are protected by the 1989 Code of Criminal Procedure, the authorities reportedly continue to resort to old procedures which enable them to hold individuals in indefinite solitary confinement without trial or conviction. At least 15 Christians belonging to the Evangelical Church are said to be concerned by these measures.

As regards the Unified Buddhist Church of Viet Nam, the authorities have reportedly ordered the closure or expropriation of the following study centres, schools and monasteries:

- Premises of the Central Executive Council;
- Van Hanh University;
- Youth for Social Services School;
- Hai Duc Institute for Advanced Buddhist Studies at Nha Trang;
- Hue Nghiem Institute for Advanced Buddhist Studies in Ho Chi Minh City;
- Monasteries of Nguyen Thieu in Binh Dinh and Nguyen Huong in Ho Chi Minh City;
- All the primary and secondary establishments belonging to the Institute of Buddhist Studies in the country, orphanages and child-care centres and all the primary and secondary schools attached to the Bo De system.

Numerous holy places of worship and statues of Buddha in public squares have allegedly been vandalized on the orders of the authorities. Of the 10,000 pagodas reflecting 2,000 years of Buddhism in Viet Nam, only a few hundred are reported to be still standing. Numerous religious books and other precious objects are said to have disappeared. The authorities have also reportedly frozen the financial assets of the Unified Buddhist Church and banned all its magazines and other journals.

The Buddhist monks allegedly persecuted for their religious beliefs include:

- Venerable Thich Tri Tuu, superior of the Linh Mu Pagoda, arrested on 5 June 1993 and sentenced on 15 November 1993 to four years' imprisonment at an in camera trial;
- Venerable Thich Hai Tinh, arrested on 5 June 1993 and sentenced to three years' imprisonment at an in camera trial;
- Venerable Thich Hai Tang, arrested on 5 June 1993 and sentenced to four years' imprisonment at an in camera trial;
- Venerable Thich Nhat Lien, arrested in December 1992 and interrogated by the security police for nine days. He is reportedly in restricted residence at the Long Tho Pagoda, Xuan Loc, Dong Nai province;
- Venerable Thich Khong Tanh, arrested on 2 October 1992 in Ho Chi Minh City, for 'leaving his pagoda without permission';
- Venerable Thich Tri Luc, arrested on 2 October 1992 in Ho Chi Minh City, for circulating a document protesting, inter alia, against the Government's attempts to suppress the Unified Buddhist Church;

- Venerable Thich Nhat Thuong, arrested on 15 September 1992;
- Venerable Thich Tue Sy, a Buddhist scholar working on an encyclopaedia on Buddhism at the time of his arrest, in March or April 1984, with a dozen members of the Buddhist clergy of the Gia Lam and Vanh Hanh Pagodas. In September 1988 he was given a death sentence, but this was allegedly commuted to 20 years' imprisonment. He is reportedly being held in camp A 20, Xuan Phuoc, Tuy Hao district, Phu Khan province;
- Venerable Thich Tri Sieu, a Buddhist scholar, also arrested in March or April 1984, when he was working with Thich Tue Sy on the above-mentioned encyclopaedia. He was sentenced to death in 1988 and then to 20 years' imprisonment. He is said to be held in re-education camp Z 30 A or K 4, Xuan Loc district, Dong Nai province;
- Venerable Thich Quang Do, leader of the Unified Buddhist Church. Since his arrest in February 1982 he has allegedly never been tried or sentenced. It is reported that, since then, he has been in restricted residence in his village of Vu Thu Vu Doai, Thai Binh province;
- Venerable Thich Huyen Quang, leader of the Unified Buddhist Church. Following his arrest in February 1982 for criticizing the efforts of the authorities to suppress Buddhism, he was reportedly placed in restricted residence in his native village of Quang Nghia, Nghia Binh province;
- Venerable Thich Phuc Vien, a Buddhist monk of the Chau Lam Temple at Hue. He was allegedly arrested in June 1980, tried three months later and sentenced to 20 years' imprisonment. He is reportedly held in re-education camp A 20, Xuan Phuoc, Phu Khanh province;
- Venerable Thich Thien Tan, a Buddhist monk arrested in August 1978 and sentenced to life imprisonment in March 1980, held in re-education camp A 20, Xuan Phuoc, Phu Khanh province;
- Venerable Thich Minh Su, sentenced to 20 years' imprisonment and held in camp Z 30 A, Xuan Loc, Dong Nai province;
- Venerable Thich Tri Giac, sentenced to 20 years' imprisonment and held in camp Z 30 A, Xuan Loc, Dong Nai province;
- Venerable Thich Tam Can, sentenced to 20 years' imprisonment and held in camp A 20, Xuan Phuoc, Phu Yen province.

The Hoa Hao Buddhist Church is also said to have suffered numerous acts of persecution. The Vietnamese authorities have reportedly confiscated all its assets and properties, namely its central office in the village of Hoa Hao in Chau Doc province, its Buddhist monastery and temple, the centre for the propagation of the faith, 4,168 auditoriums, 452 meeting centres, and 2,876 provincial, district and village offices. All these premises have allegedly been turned into government offices and have never been restored to the Hoa Hao Buddhist Church.

The authorities have also reportedly prevented 36,500 officials at all levels, including 2,700 officials in charge of the propagation of the faith and 6,000 religious teachers from continuing their religious activities. These persons are allegedly under close surveillance after serving sentences in re-education camps.

It is alleged that religious ceremonies have been prohibited in temples and meeting centres and that religious books have either been confiscated or destroyed, as have altars in places of worship.

A number of eminent persons and believers have reportedly been sentenced to death, in particular: Nguyen Van Phung, Nguyen De, Huyn Van Lau, Nguyen Van Bao, Nguyen Van Khiet, Nguyen Van Oanh, Le Chon Tinh, Nguyen Van Coi, Nguyen Van Ba, Nguyen Van Ut, To Ba Ho and Nguyen Thanh Long.

It is alleged that a number of eminent persons are still in prison and that four of them - namely Nguyen Van Dau, Nguyen Van Hung, Nguyen Van Tren and Nguyen Van Dung - are serving life sentences. More recently, another eminent person, aged 70, Tran Huu Duyen, after several years in a re-education camp, was reportedly re-arrested and sentenced to 10 years' imprisonment, after already spending several years in a re-education camp.

The repression of the Cao Dai Church is said to have been particularly harsh, resulting during 1975 and 1990 in the total seizure by the authorities of all its assets and religious institutions, whether religious, cultural or social centres or schools.

Where the Catholic Church is concerned, some progress seems to have been made in relations between the Vietnamese Government and the Vatican. In 1991 the authorities allegedly permitted the first ordination of a Catholic bishop since 1975. More recently, in March 1993, at a meeting with the Conference of Vietnamese Bishops, the State Committee for Religious Affairs reportedly declared that it was ready to envisage relaxing the restrictions on the religous practice of priests released from re-education camps, and the possibility for them to study abroad and to regain their civic rights on returning to Viet Nam from abroad. A National Catholic Migration Commission has also allegedly been set up to facilitate the return of Vietnamese refugees to their native land.

Despite these developments, 24 members of the Catholic clergy reportedly remain imprisoned for their religious beliefs. They are:

- Brother Tran Van Hien, a member of the Congregation of the Co-redeeming Mother, arrested in October 1992 in Bien Hoa and held there since then without having been charged;

- Sister Tran Thi Tri, arrested with two Catholic priests (date unknown) and sentenced in 1987 to five years' imprisonment;

- Brother Nguyen Van De, arrested in October 1987 at My Tho, Tien Giang province, after translating and distributing religious literature from abroad. Sister Nguyen Thi Ni and nine other Catholics are reported to have been arrested along with him. He was tried on 15 and 16 August 1990 and sentenced to 10 years' imprisonment, then to restricted residence shortly after November 1992 in My Tho seminary, Tien Giang province;

- Sister Nguyen Thi Ni, arrested in October 1987 and tried in August 1990;

- Brother Paul Nguyen Chau Dat and Reverend John B. Pham Ngoc Lien, both members of the Congregation of the Co-redeeming Mother, arrested on 15 May 1987 and sentenced on 30 October 1987 to 20 years' imprisonment. They are reportedly held in Long Khanh Camp, Dong Nai province;

- Reverend John Doan Phu Xuan, a member of the Congregation of the Co-redeeming Mother, arrested on 15 May 1987 and sentenced on 30 October 1987 to 10 years' imprisonment;

- Brother Michel Nguyen Minh Quan, a member of the Congregation of the Co-redeeming Mother, arrested on 15 May 1987, tried on 30 October 1987 and held since then in Long Khanh Camp, Dong Naic province;

- Brother Luc Vu Son Ha, Brother Marc Tran Khac King, Reverend Hilry Do Tri Tam, Brother Pius Vu Than Hai, Brother Pham Ngoc Chi and Brother Bernard Nguyen Thien Phung, all members of the Congregation of the Co-redeeming Mother, arrested on 15 May 1987 and sentenced on 30 October 1987 to 7 years', 15 years', 12 years', 10 years', 7 years' and 20 years' imprisonment respectively. They are reportedly held in Long Khanh Camp, Dong Nai province;

- Reverend Thadeus Ding Tri Thuc and Brother Jean E. Mai Huu Nghi, both members of the Congregation of the Co-redeeming Mother, arrested on 15 May 1987 and sentenced on 30 October 1987 to 14 and 18 years' imprisonment respectively. They are reportedly held in Tuy Hoa Camp, Nha Tran;

- Brother Dominique Ngo Quang Tuyen, arrested in October 1982 and sentenced in June 1986 to two prison sentences of a combined total of 25 years, later commuted to 18 years. He is reportedly held in Xuan Loc, Dong Nai province;

- Brother Joseph Nguyen Cong Doan, a Jesuit arrested in December 1980 with nine other Jesuit priests, when the authorities reportedly closed down the Dac-Lo Jesuit Centre. He was sentenced on 29-30 June 1983 to 12 years' imprisonment and was reportedly held in camp Z 30 A, at Xuan Loc, Dong Nai province, before probably being released in January 1990. He is allegedly not permitted to celebrate mass;

- Brother Tran Huu Thanh, arrested on 15 February 1976. He was allegedly detained without being charged or tried and tortured for two months at a police station in Ho Chi Minh City. He was transferred to Chi Hoa prison, then a year later to Hanoi for re-education. At the present time he is allegedly in restricted residence in the north parish of Hai Duong;

- Ly Van Dinh, Vang Seo Sang and Sung Khai Pha, all preachers of the Hmong community in Ha Giang province, probably arrested in 1992;

- Ngo Van An and Doan Thanh Liem, both Catholic laymen, who allegedly sent a letter to the Archbishop of Ho Chi Minh City. They have probably been in detention since 1990.

Within the Protestant Church and its Evangelical movement, the growth of house churches has allegedly aroused the suspicions of the authorities, who have reportedly made a number of arrests of ministers and religious leaders, and in particular the following persons:

- Tai Ba Nguyen, house church leader. Allegedly arrested in 1992 and held in Ho Chi Minh City;

- Pastor R'mah Loan, member of the Hmong tribe in charge of 14 congregations. Allegedly arrested in June 1991 and held without trial in prison in Buon Me Thuot, Dak Lak province;

- Reverend Phan Quang Thieu, house church leader in Ho Chi Minh City arrested between February and June 1991. He is reported to be one of the religious leaders held in administrative detention for 'illegal evangelization activities';

- Le Quang Trung, house church leader in a rural area of southern Viet Nam. Allegedly arrested between February and June 1991 and placed in administrative detention for 'illegal evangelization activities';

- Vu Minx Xuan, also arrested between February and June 1991 and placed in administrative detention for 'illegal evangelization activities';

- Hoang Van Phung, leader of a house church in a rural area of southern Viet Nam. Arrested between February and June 1991 and placed in administrative detention for the same reasons as above;

- Pastor Bui Than Se, house church leader in Ho Chi Minh City. Placed in administrative detention between February and July 1991; since then he has reportedly been under continuing police surveillance;

- Pastor A Uot, a member of the Jerai tribe and religious leader; probably arrested in June 1990 for 'illegal evangelization activities' and sentenced to three years' imprisonment. He is reportedly held in Pleibong (T5) re-education camp, Gia Lai-Kon province;

- Reverend Nguyen Chu, an evangelical pastor working with the Jeh minority in Gia Lai-Kon Tum province. He was allegedly arrested on 15 April or 13 May 1990 when he was preaching in the town of Kontum, by six policemen armed with guns and electric truncheons. He has reportedly already spent several periods in prison. Following his release, he was allegedly placed under police surveillance for three years;

- Pastor Ya Tiem, a member of the Koho tribe. He was allegedly arrested in 1990 and sentenced without a trial to three years' imprisonment, possibly with two other pastors, Ha Wan and Ha Hak. He is reportedly imprisoned in Dalat, Lam Dang province;

- Pastor Ha Wan, a member of the Koho tribe, arrested in 1989 or 1990. Reportedly sentenced to three years' imprisonment for 'illegal evangelization activities' and held either in Dalat or in the Tong Le Chan K1 labour camp;

- Pastor Ha Hak, a member of the Koho tribe, arrested in 1989 or 1990 and sentenced, perhaps with Pastors Ha Wan and Ya Tiem, to three years' imprisonment for 'illegal evangelization activities'. He is reportedly held in Dalat prison, Lam Dang province;

- Pastor R'mah Boi, a member of the Jerai tribe. He was allegedly arrested in 1989 at Chu Pa, Gia Lai-Kon Tum province, for attempting to help, along with other members of his tribe, two of their members sentenced to forced labour for holding a house church meeting. He is reportedly being held without trial at camp A-20, in Dong Xuan, Phu Yen province;

- Pastor Pham Tu, of Binh Tuy. He was allegedly arrested in January 1987 for organizing services in his home".

82. On 7 December 1993, the Permanent Mission of the Socialist Republic of Viet Nam to the United Nations Office at Geneva acknowledged receipt of the above-mentioned communication, which was transmitted to the competent bodies in Viet Nam.

83. On 31 December 1993, the Permanent Mission of the Socialist Republic of Viet Nam to the United Nations Office at Geneva transmitted the following information concerning the communication sent to it by the Special Rapporteur on 3 December 1993:

> "1. Viet Nam is a multi-religious country where approximately 20 million people (nearly one third of the population) practise more than 10 different religions. Through thousands of years of its history, Viet Nam has not experienced religious intolerance, discrimination or conflicts. The Vietnamese State and the Communist Party of Viet Nam have reaffirmed that 'religious belief constitutes a spiritual need of the religioners' (political report delivered before the Seventh National Congress of the Communist Party of Viet Nam, 1991). Proceeding from Viet Nam's tradition of national union, the Vietnamese Government pursues a consistent policy of broad national union between religioners and non-religioners with a view to encouraging Vietnamese of all strata and religions in the whole country and abroad to contribute to the cause of building Viet Nam into a strong country with a rich people and a civilized society. In order to dispel prejudices and complexes existing among the people as a result of 30 years of war, the Vietnamese State is committed to ensuring 'abolition of all narrow-minded prejudices and discriminatory attitudes towards religious fellow-countrymen' (above-mentioned document).
>
> On the legal plane, religious rights and freedoms are guaranteed in Viet Nam's Constitution. Article 70 of Viet Nam's Constitution stipulates: 'Citizens are entitled to enjoy the freedom of belief and religion and to practise or not practise religion. All religions are equal before the law'. To concretize and realize the Constitution, the Vietnamese Government has promulgated specific policies: Circular 234 (signed by the President of the Republic on 14 June 1955), Resolution 297 (adopted by the Government Council on 11 November 1977), Decree 69 (issued by the Government Council on 21 March 1991) and Circular 379 (issued recently by the Prime Minister of the Government). In practical reality, believers and religioners in Viet Nam are totally free to worship and undertake religious activities within the framework of the law. Decree 69 issued by the Government Council on 21 March 1991 and Circular 02 of 24 February 1993 guiding the implementation of this Decree specifically stipulate that: places of worship shall be protected by the State (art. 11); religious denominations are allowed to have their places of worship, prayer-books, other articles necessary for religious use, and priests, to print and publish prayer-books (art. 14) (In fact, for the first time in the history of Vietnamese Buddhism, the Sutra has been translated into Vietnamese and 11 of its volumes have been printed for believers' use); religious denominations are allowed to open seminaries and training establishments (art. 77) ...
>
> As has been witnessed by many foreign visitors in Viet Nam, Christmas celebrations and the annual Buddhist pilgrimage to the Perfume Pagoda (Chua Huong) are freely attended by thousands of Catholic and Buddhist followers.

In Viet Nam there are at present nearly 20,000 places of worship, 12,500 Buddhist pagodas, 5,400 Catholic churches, 450 Protestant churches, 650 Cao Dai temples and 70 Muslim sanctuaries. Most of the places of worship have been or are being repaired; those destroyed by enemy bombing are being or shall be reconstructed. There are at present in Viet Nam approximately 10 million Buddhist, 6 million Catholic, 1.5 million Cao Dai, 1.5 million Hoa Hao, 300,000 Protestant and 50,000 Muslim believers.

The Buddhist Church has 20,000 bonzes, 1 Buddhist Research Institute, 2 high-level Buddhist schools and 20 middle-level Buddhist schools where thousands of priests are being trained. During the two-year period from 1991 to 1993 alone, the number of priests has increased by 3,000. Every year, the Buddhist Church organizes ceremonies to ordain priests, the highest number of priests ordained at one such ceremony being 700. Buddhist prayer-books are published. As already mentioned above, for the first time in the history of Vietnamese Buddhism, the Sutra has been translated into Vietnamese.

The Catholic Church has 33 bishops, 18 of them having been ordained by the Vatican after the liberation of South Viet Nam in 1975. The relationship between Viet Nam and the Vatican is being further improved. Each of the last three years witnessed meetings between delegation of the two sides, which produced concrete results, among them the ordainment of 5 more bishops. Five seminaries are training priests for the whole country, the number of trainees at each seminary ranging from 100 to 300. Every year, about 100 new priests on average graduate from those seminaries. The Catholic Church has 80 congregations, 50 belonging to the international one, with an increasing number of priests. At present, the Council of Vietnamese Bishops are translating the Vatican's Universal Catechism into Vietnamese.

The Protestant Church has 500 ministers. New ministers are being trained at a Protestant school. Many ministers have been ordained after 1975. The Protestant Church of Viet Nam maintains its contacts which the international Protestant Church and has imported into Viet Nam many Bible books.

The Hoa Hao, Cao Dai and other religious sects are carrying out their normal activities.

In the context of Viet Nam's open-door policy, the religious organizations' international relations keep being expanded. In 1993, 125 delegations comprising religious dignitaries in the country were allowed to go abroad to attend conferences or to participate in other international religious events. A great number of foreign religious dignitaries and organizations have visited Viet Nam.

In 1993, representatives of 12 Asian Buddhist organizations met in Hanoi. The Vatican sent 4 delegations to Viet Nam. Delegations representing the American, French and Australian Councils of Bishops, many foreign bishops and the General-Superior of the international congregation also visited this country. Representatives of the World

Council of Churches (WCC), the Asian Church Council (ACC) as well as representatives of the American, German, French, Swiss, South Korean and other Protestant churches visited the country and worked with the Vietnamese Protestant Church. Many other religious dignitaries have been to this country. Presently about 80 NGOs of a religious nature or relating to religions are operating in Viet Nam.

Religious organizations in Viet Nam have sent their followers to India, Taiwan, the Philippines, France and the Vatican to study.

Concerning the Buddhist Church: All personages and leaders of the United Buddhist Church of Viet Nam (founded in 1964), except Thich Huyen Quang, for his disapproval of the union of all Buddhist congregations, joined and held or are holding high leading posts in the Buddhist Church of Viet Nam. Hence, one cannot say that the existing Buddhist Church of Viet Nam (founded in 1981) is one created by the State.

Concerning the Catholic Church: All Catholic bishops in Viet Nam belong to the Roman Catholic Church and have been ordained by this Church. Every year, there are Vietnamese bishops going to the Vatican. Every synod held in the Vatican since 1975 had the participation of representatives of the Council of Vietnamese Bishops. The thought that the Vietnamese Government had plotted to create a self-governed Church independent of the Vatican is merely an imagination.

A number of personages in the central organs of the Hoa Hao and Cao Dai Churches, among them some ministers, while carrying out their missionary work for the Protestant Church among the ethnic minority groups, participated in plots to overthrow the legitimate Government. They had stored weapons in preparation for rebellions and had even undertaken armed activities against the Government. In Viet Nam, no person is arrested, detained or tried for religious activities or for religious positions. All the trials carried out were in conformity with the Criminal and Civil Codes of Viet Nam which apply to all Vietnamese citizens without any discrimination of beliefs and religions.

Naturally, not everything concerning religions in Viet Nam is all good. The policies are yet to be fully concretized and are still violated not only by religious followers but also by government functionaries. The above-mentioned, however, is enough to negate the allegations of the so-called 'repression' of religions by the Vietnamese Government.

2. Concerning the specific cases mentioned in your letter, I wish to inform you as follows:

(a) The following persons are not being detained or under any kind of surveillance:

- Thich Nhat Lien
- Thich Khong Tanh

- Thich Quang Do

  (not under surveillance, presently leading his free religious life at the same pagoda in Ho Chi Minh City, where he has compiled a dictionary of Buddhism whose first volumes have been published and are on display for sale at various pagodas).
- Thich Huyen Quang
- Nguyen Thi Nhi
- Nguyen Cong Doan
- Tran Huu Thanh
- Bui Thanh Se
- Nguyen Chu

(b) The following persons have been freed in recent years:

- Thich Minh Su
- Doan Phu Xuan
- Vu Son Ha
- Tran Khac Kinh
- Do Tri Tam
- Pham Ngoc Chi
- Nguyen Thien Phung
- R'Mak Loan
- Vu Minh Xuan
- Hoan Van Phung
- A Uot
- Ya Tiem
- Ha Wan
- Ha Hak
- R'Mak Boi

(c) The following persons have violated the law, have been tried in public, in full accordance with the criminal procedures of Viet Nam, and at present are serving their sentences:

- Thich Tri Tuu
- Thich Hai Thinh
- Thich Hai Tang
- Thich Tue Sy
- Thich Tri Sieu
- Thich Phuc Vien

- Thich Thien Tan
- Thich Tri Giac
- Nguyen Chau Dat
- Pham Ngoc Lien
- Nguyen Minh Quan
- Dinh Tri Thuc
- Mai Huu Nghi Chuong
- Ngo Van An
- Doan Thanh Liem

We have not got confirmation on the status of the remaining cases, including those you said in your letter to have been sentenced to death.

> The Vietnamese law provides that 'all religions are equal before the law, no one has the right to violate the freedoms of belief and religion or to abuse those freedoms to violate State regulations and policies' (art. 70 of Viet Nam's 1992 Constitution). Among those having violated the law and presently serving their sentences mentioned above are Thich Tri Tuu, Thich Hai Thinh and Thich Hai Tang. While in your letter it was said that they had been arrested for their religious activities and tried in camera, the fact was completely contrary. These persons had abused religious freedoms to violate the law by deliberately causing public disorder and sabotaging public property. Those witnessing the event have made objective reports on this disturbance in Hue (May 1993); the video tapes that they have recorded of the event and that have been screened on television vividly reflect the truth. The people in the whole country have seen the disturbance acts and are very annoyed by the acts committed by those followers of Buddhism, a religion that by tradition only advocates non-violence and worships for the good.
>
> On 15 November 1993, the People's Court of Hue City tried these persons in public and in full accordance with the criminal procedures of Viet Nam and gave them appropriate sentences for their guilt in causing public disorder. The Vietnamese media have carried full reports on the trial where one could see full attendance of the public, among them Buddhists."

Former Yugoslavia

84. The Special Rapporteur has once again examined the very disturbing situation existing in the territory of the former Yugoslavia, where a number of religious communities and places of worship have been subjected to serious acts of violence, especially in Bosnia and Herzegovina. This year as before, no specific allegations were sent to the authorities concerned, because of the complexity of the situation and because the Special Rapporteur who was expressly appointed by the Commission to examine the human rights situation in the territory of the former Yugoslavia went there several times and informed the Commission of his visits in the five reports which he has submitted to it since February 1993. In the conclusions of his latest report, the Special

Rapporteur "reminds the world that the Muslim community in Bosnia and Herzegovina is threatened with extermination" (E/CN.4/1994/47, para. 228).

85. From the information he has received, the Special Rapporteur notes that the practice of "ethnic cleansing" continues to be carried out in the territory of the former Yugoslavia. In most instances, there is definite religious discrimination underlying this practice. The information received by the Special Rapporteur is admittedly incomplete at this stage. At present, he has mainly lists of religious buildings or places of worship against which acts of destruction were allegedly perpetrated. Many clerics of various religious groups were reportedly molested, threatened with death or even executed. As an example, the Mufti of Tuzla, Bosnia and Herzegovina, was reportedly imprisoned by Croatian forces at Konjic at the beginning of 1993 and cruelly beaten. He has testified that some 50 imams were also detained in the same prison. Attempts were allegedly made to convert some 2,600 Muslims from Banja Luka and Doboj to the Orthodox religion. Other attempts at conversion, this time to Islam, were made, east of Mostar and in the town of Bugojno. In Foinica, central Bosnia, two Catholic priests were reportedly killed by government troops on 15 November 1993.

86. The Special Rapporteur has also been informed that many religious sites in Sarajevo, of Muslim, Catholic or Orthodox origin, suffered considerable damage as a result of the bombardment of the town.

87. Concerning the Muslim religious sites, the following allegations have been made:

- The Bey's Mosque (Gazi Husreva-Begova dzamija), constructed in 1530 and the largest in Europe after those of Turkey: the dome and minaret have been seriously damaged. The tombs of Bey Gazi Husreva and Bey Murat have been struck by a large number of projectiles.

- The Sultan's Mosque (Careva Dzamija), constructed in 1565, has been restored after having suffered extensive damage. Monuments in the adjoining cemetery were seriously damaged during bombardments.

- The nearby Bey Gazi Husrev library, constituted in 1537 and containing a very rich collection of 4,500 manuscripts, has suffered serious damage. A reliable eyewitness has said that it was burnt down.

- The Ali Pasha Mosque (Ali-pasina dzamija), constructed in 1560, has suffered severe damage, particularly to the dome.

- The Bascarisija Mosque (Dzamija Havadze Duraka), erected in 1550, has been struck by several projectiles.

- The Koranic school (Kursumlija medresa), built in 1537, was repeatedly attacked and partly burnt down.

- The Cekrcina Mosque (Cekrcina dzamija), dating from 1526, has suffered extensive damage, as have the surrounding houses.

- The Bey Ferhat Mosque (Ferhat-begova dzamija), dating from 1561, has been seriously damaged.

- The Mesjid Tabacki (Hadzi Osmanov mesdzid), dating from 1591, has been burnt down.

- The Cobanija Mosque (Cobanija dzamija), dating from 1562, has been damaged.

- The Dzanica Mosque (Dzamija Dzindo-zade), dating from the seventeenth century, has been hit by a large number of projectiles.

- The Hadzi Ibrahim Mosque (Dzamija Dajanli Hadzi Ibrahima na Gorici), dating from the seventeenth century, has been seriously damaged.

- The Mesjid Gazgani Hadzi Ali (Mesdzid Gazgani Hadzi Alije na Sirokaci), dating from 1561, has been seriously damaged.

- The Magribija Mosque (Dzamija Sejha Magribije), dating from the fifteenth century, has been reduced to ruins as a result of bombardments in May 1992.

- The Sinanova Mosque (Ijdidzik Dinanova dzamija na Sirokaci), dating from 1562, suffered very serious damage as a result of rocket attacks on 19 and 20 May 1992.

- The Hadzi Mehmed Mesjid (Ivlakovli Haezi Mehmedov mesdzid), dating from 1528-1540, suffered severely during the bombardment of 12 June 1992.

- The Sarac Ali Mosque (Sarac Alijina dzamija na Vrbanjusi), dating from 1892-1893, has been seriously damaged.

- The Seik Faruh Mosque (Sejh Feruhova dzamija), dating from 1541, has suffered severe damage.

- The Hadzi Ihnan-age Topalovica Mosque (Dzamija Hadzi Ihnan-age Topalovica), dating from 1525, has suffered very extensive damage.

- The Sinan Hatun Mosque (Dzamija Sinan Vojvode Hatun na Vratnik-Mejdanu), dating from 1552, has been hit several times by projectiles.

- The new Kobiloj Glavi Mosque has been completely destroyed by tank and heavy artillery shells; this has apparently been confirmed by an eyewitness.

88. With respect to the Catholic religious sites, the Catholic Archbishopric of Bosnia has provided a list of churches, religious buildings or seminaries that were allegedly hit or damaged during the bombardment of Sarajevo. The allegations relate to the following buildings:

- The Cathedral, dating from 1899: its roof, facades and stained-glass windows have been damaged; it was last struck by a tank shell on 15 February 1993.

- The Church of Saint Cyril and Metoda, dating from 1896: its dome and walls were struck by shells in March 1993, its windows were broken and the church has remained closed ever since.

- The Residence of the Archbishop, dating from 1893: its windows have been broken and its facade damaged by direct hits; the roof of the library was also pierced by shells.

- The neo-Baroque Church of the Queen of the Holy Crown, dating from 1910: its roof has been struck by projectiles.

- The Church of Saint Vinka, dating from 1910, has suffered major damage, particularly to the roof; three paintings by Gabriel Jurkic, as well as the organ and almost the entire interior of the church, have been destroyed.

- The Church and Seminary of Saint Anthony, dating from 1912-1914, have been hit and the Seminary in particular has been damaged.

- The Church of the Christ Child, dating from 1890-1892, has been completely destroyed by fire as a result of bombardments.

- The Bishop's Ordination Building, dating from 1895: its roof, facades and windows have been damaged as a result of shelling.

89. According to the information provided by the Orthodox religious authorities on 29 March 1993, the following churches and buildings have been hit:

- The Church of the Archangels, an old Orthodox church dating from the sixteenth century, with a neo-Byzantine tower added in 1908, suffered damage to its roof and stained-glass windows, mainly during the bombardment of 1 March 1993; it is said that the damage has since been repaired. The museum adjoining the church allegedly suffered less extensive damage.

- The Saborna Church: its roof allegedly suffered serious damage and its stained-glass windows have been destroyed.

- The New Sarajevo Church was allegedly burnt down completely.

- The Metropolitanat building: its roof was partially burnt during the bombardments and the library containing 5,000 books, as well as its archives, were completely destroyed by fire.

90. The Special Rapporteur has also received reports of destruction in other places in Bosnia and Herzegovina. Apart from the mosques in Sarajevo, many others in the following places have allegedly suffered considerable damage: Banja Luka, Bijeljina, Bileca, Bosanska Krupa, Bosanski Brod, Bosanki Novi,

Bosanki Samac, Bratunac, Brcko, Derventa, Doboj, Foca and its region, Gorazde, Gracanica, Jajce, Kalesija, Konjic, Kotezi, Nevesinje, Prijavor, Trebinje, Tuzla and Zvornik. A number of Muslim buildings are alleged to have been destroyed by Croatian forces in Mostar and in Sfolac, western Herzegovina. In this region as well, the ethnic cleansing carried out in the town of Pocitelj reportedly led to the demolition of a sixteenth-century mosque and its madrasa.

91. In addition, according to very recent reports, Croatian or Muslim forces have wrought considerable destruction on many religious buildings belonging to several eparchies of the Serbian Orthodox Church in Bosnia and Herzegovina. It is alleged that:

- In the eparchy of Banja Luka, an Orthodox church has been destroyed;
- In the eparchy of Bihac and Petrovac, five churches have been destroyed and two others damaged;
- In the eparchy of Dabar and Bosnia, the headquarters of the latter have been destroyed; 10 churches have been demolished and 12 others damaged, as well as a chapel; 2 other chapels and 7 church buildings have been demolished;
- In the eparchy of Zahumlje and Herzegovina, 24 churches have been demolished, including the Zitomislic monastery, and a further 16 churches have been damaged. Two bishop's residences have been dynamited; five cemeteries have been devastated and five others damaged. Three chapels have also been hit and one of them has been demolished. Two church buildings have been destroyed;
- In the eparchy of Zvornik and Tuzla, 32 churches have been destroyed and 26 others damaged. The headquarters of the eparchy, including the bishop's residence and eight church buildings, have been damaged. Twenty other church houses, 1 chapel and 2 cemeteries have been demolished;
- Lastly, in Mostar, an ancient sixteenth-century Orthodox church has been destroyed. The cathedral was dynamited and razed in June 1992 after the belfry and the interior of the church had suffered considerable damage.

92. Other religious buildings, as recorded by the Catholic Archbishop of Bosnia, have also been damaged: in Bugojno (11), in Travnik (3), in Dervent (15), in Usors (8), in Brcan (8), in Dobor (16), in Samac (7), in Zepac (3), and in Sutjes (3).

93. It is reported that in Croatia, seven Roman Catholic churches have been destroyed by Serbian forces in the eastern sector of the region. In the same sector, in Ilok, the church has been attacked on three occasions. The headquarters of the eparchy of the Serbian Orthodox church in the town of Karlovac have been destroyed. Lastly, in Zagreb, the residence of the Orthodox Metropolitan has been dynamited. Still in Croatia, Croatian forces

have desecrated and damaged the Serbian Orthodox church of Dubrovnik, and set up their quarters there in October 1992; they have also bivouacked in the fifteenth-century Serbian monastery of Zavata.

III. CONCLUSIONS AND RECOMMENDATIONS

94. The implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief cannot be dissociated from the general question of respect for all human rights, which cannot be truly promoted in the absence of democracy and development. Any measures for the promotion of human rights should therefore be simultaneous on the one hand with measures to establish, strengthen or protect democracy as the expression of human rights at the political level and, on the other hand, with measures to contain and gradually reduce extreme poverty and encourage the right of individuals and peoples to development as the expression of human rights and solidarity at the economic, social and cultural level. This means, as highlighted by the Vienna Conference, that "Democracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing" and that "All human rights are universal, indivisible and interdependent and interrelated".

95. The Special Rapporteur is of the opinion that any dissociation of the elements of the trilogy - just as any selectivity in this area - would tend to have the effect of reducing human rights to a discourse of variable consistency and scope, which could have an unfavourable impact on the mechanisms and procedures for the protection of human rights.

96. If the protection of human rights constitutes a legitimate concern of the international community, it is because, on principle, it is above individual contingencies and considerations and because its motives as well as its aims are by definition supposed to be and to remain justifiable, since there is a need to ensure that human rights are respected and prevail over any selectivity and over any other aims and objectives. The Special Rapporteur is of the view that it would be desirable to give greater assurance to all the parties concerned by respect for human rights and to assert more forcefully the need to ensure the protection of human rights from anything which is alien to it by steering equally clear of interference, rejection or evasion.

97. Hatred, intolerance and acts of violence, including those prompted by religious extremism, could serve to create situations that might, in one way or another, threaten or jeopardize international peace and security and adversely affect the right of individuals and peoples to peace. It is the view of the Special Rapporteur that the preservation of the right to peace should encourage greater development of international solidarity, in order to stamp out religious extremism, whatever its source, by attacking both its causes and its effects, without selectivity or ambivalence, and by laying down initially a minimum set of joint rules and principles of conduct and behaviour in regard to religious extremism.

98. It is in the minds of men that all forms of intolerance and discrimination based on religion or belief take form and it is at this level, much more than at others, that action should primarily be taken. Education could be the key instrument for combating discrimination and intolerance. It

could contribute decisively to instilling the values that focus on human rights and on the emergence, among both individuals and groups, of attitudes and behaviour exhibiting tolerance and non-discrimination and thus participate in disseminating the culture of human rights. The school has a vital place in the educational system. Therefore, special attention should be paid the world over to what school curricula impart about religious freedom or tolerance, particularly at the primary and secondary levels. The Special Rapporteur is deeply convinced that lasting progress with regard to tolerance and non-discrimination in the matter of religion or belief could be achieved first and foremost through the school. He feels that it would be appropriate to conduct a survey on the questions that fall within his mandate in the form in which they could appear in school curricula. Such a survey would make it possible to envisage the formulation, jointly with the specialized international organizations in particular, of an international school strategy to combat all forms of intolerance and discrimination based on religion or belief. This strategy could centre on the elaboration and realization of a minimum joint programme of tolerance and non-discrimination.

99. For the eighth consecutive year, the Special Rapporteur has examined, under the mandate entrusted to him by the Commission on Human Rights, incidents and governmental measures reported to be inconsistent with the provisions of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. This year, even more than in the past, he wishes to express to the Commission and to the States members of the Commission his deep gratitude for their trust in him so far and for the useful dialogue which he has already had with some of them.

100. In the course of the present reporting period, the Special Rapporteur has received many allegations concerning violations of the rights and freedoms set out in the Declaration and has thus been able to gain a clearer idea of the factors impeding its implementation. The positive dialogue which has been established between him and Governments over the years has enabled him to ask the latter specific questions about particular incidents or cases which involve their countries. He welcomes the spirit of openness, the readiness to listen, the sustained interest, as well as the willingness to arrive at practical solutions which he encountered among the Governments approached during this initial phase of his mandate. He also appreciates the remarkable progress made in some countries such as Albania and Bulgaria in relation to various questions falling within his mandate. Lastly, he notes the efforts made by other countries such as the Republic of Moldova and Romania to contain and resolve the difficulties posed by some particular aspects of the religious problems which they face.

101. The Special Rapporteur wishes especially to thank the non-governmental organizations for the excellent cooperation which they have extended to him and to emphasize the dynamic role which they have played in order to provide him constantly with new information about the facts and problems falling within his mandate. The information communicated to the Special Rapporteur demonstrates the complexity of the concerns felt by the international community about the problems of religious intolerance and discrimination and the genuine efforts being made by many Governments to limit their impact. Once again, the role of the Special Rapporteur is not to make value judgements or level accusations but, rather, to identify the factors or even certain of

the causes underlying the emergence of phenomena of religious intolerance or discrimination. In this way, he hopes to mobilize the active sectors of international public opinion and to establish a lively dialogue with the Governments and any other parties concerned. With this in mind, the Special Rapporteur intends to use the internationally recognized norms on religious freedom as the basis for his action. These include article 18 of the Universal Declaration of Human Rights and of the International Covenant on Civil and Political Rights as well as all the provisions of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.

102. During the period covered by this report, the Special Rapporteur received complaints from virtually all regions of the world. Various manifestations of religious intolerance have persistently occurred in countries at varying stages of development and with different political and social systems and have not been confined to a particular faith. The majority of the complaints concerned violations of the right to have the religion or belief of one's choice, the right to change one's religion or belief, the right to manifest and practise one's religion in public and in private, the right to celebrate holidays and ceremonies in accordance with the precepts of one's religion or belief and the right not to be subjected to discrimination on these grounds by any State, institution or group of persons.

103. As the Special Rapporteur has already highlighted in his previous reports, the infringement of the rights mentioned above jeopardizes to a greater or lesser degree the enjoyment of other fundamental rights and freedoms enshrined in both the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, as well as in other human rights instruments. During the present reporting period, the failure to respect certain provisions of the Declaration has had a negative bearing on the right to life, the right to physical integrity and to liberty and security of person, the right to freedom of expression, the right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment, and the right not to be arbitrarily arrested or detained. The Special Rapporteur notes once again that the rights of persons belonging to religious minorities have been frequently infringed, often seriously, in the countries with an official or clearly predominant majority religion.

104. Acts of religious intolerance and discrimination have been characterized in many instances by the use or threat of violence. In most cases, they have encompassed the prohibition and repression of external manifestations relating to a particular religion. Confrontations between followers of different faiths have continued, as have physical and mental persecution. Many measures of intimidation and even of repression have been applied for belonging to a specific faith or religious group, such as arbitrary detention, heavy prison sentences or life imprisonment, ill-treatment or torture, abduction or even summary or extrajudicial execution. Persons who have converted to another, especially minority, religion, are still severely punished in several countries. The Special Rapporteur notes that there are sometimes veiled economic motives for these measures. In other countries, mandatory religious instruction has been given to persons not belonging to the official religion.

105. There is also the continuing application of administrative sanctions against members of certain faiths, such as confiscation of their property, denial of access to education and employment, exclusion from public service and even denial of salaries and pensions. Certain legal safeguards such as the right to a fair trial and the right of legal recourse are no longer respected or applied by several countries. Members of the clergy belonging to various denominations have continued to be subjected to discrimination or even to receive death threats as a result of their work in their respective communities performed alongside their religious functions.

106. This year again, the Special Rapporteur has received alarming reports of acts of religious intolerance and discrimination being performed by groups of individuals with little or no intervention on the part of the security forces. He is also deeply concerned by allegations that the armed forces or members of the security services actually participated in such activities in a number of cases. The Special Rapporteur has once again noted how difficult it is to curb or eradicate the propagation of extremist or fanatical opinions and overcome the distrust inspired by members and groups of certain denominations or adherents to sects. Although the manifestations of religious discrimination and intolerance are often caused by a variety of historical, economic, social, political or cultural factors, they are frequently also the result of sectarian and dogmatic attitudes. In view of their possible adverse effect on the stability of international relations, the Special Rapporteur is of the opinion that States should remain particularly vigilant in this regard and make determined efforts to combat religious discrimination and intolerance at all levels.

107. The Special Rapporteur is deeply concerned over the developments in certain countries and in particular in Algeria, where there has been considerable loss of life. Academics, doctors, journalists and clergymen have also been the victims of violence which reflects attitudes and behaviour of intolerance and discrimination based on religion or belief. The Special Rapporteur is also concerned about the mounting tension and antagonism between religious groups or groups claiming to draw inspiration from certain religions in several regions of the world. In his report to the Commission on Human Rights at its forty-eighth session (E/CN.4/1992/52, paras. 47 and 48), the Special Rapporteur mentioned the attack on the sixteenth-century Babri Mosque in Ayodya, India, which was destroyed by Hindu militants at the beginning of December 1992 in clashes which had resulted in more than 1,000 deaths at the time when the report was being finalized. This deplorable incident also gave rise to the demolition of several Hindu temples in retaliation for this act as well as to violent outbursts of religious intolerance both in India and in a number of neighbouring and other countries. The Special Rapporteur is also deeply concerned over the allegations of systematic violations of a wide range of human rights of members of the Muslim community in Myanmar. He feels, furthermore, that greater attention should be paid in the immediate future to the increasing number of problems posed by religious extremism, religious minorities, and sects and other similar or comparable communities.

108. The Special Rapporteur also notes that the claims to recover their property by several Churches in different Eastern European countries such as Romania have not been fully met, although appropriate legislation has been

passed to that effect. He considers that the efforts made by the authorities concerned deserve to be supported and encouraged, all the more so as the changes needed are sometimes difficult to carry out and as, in any transition, real obstacles can be encountered which it will take time to eliminate.

109. The Special Rapporteur is deeply concerned over the critical situation that has developed in the territory of the former Yugoslavia. The policy of demolishing the religious and cultural foundations being pursued there, the destruction of religious and cultural monuments and sites as well as the threats to exterminate the Muslim community are a constant challenge to the entire international community. It is appropriate to point out, once again, that in his latest report to the Commission on Human Rights, the Special Rapporteur responsible for examining the human rights situation in the territory of the former Yugoslavia "reminds the world that the Muslim community in Bosnia and Herzegovina is threatened with extermination" (E/CN.4/1994/47, para. 228).

110. The Special Rapporteur considers that the establishment of interdenominational dialogue among the main religions is of the utmost importance in combating the injurious effects of the sectarian ideas and intransigence demonstrated by certain extremist groups and enhancing religious tolerance throughout the world. The prerequisite for the establishment of a climate conducive to dialogue and understanding is respect for the rule of law and the proper functioning of democratic institutions. The development of the rights and freedoms established in the 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief can only be achieved if special attention is given to the complex underlying factors which hamper the exercise of these rights, for the sectarian ideas and intransigence and even manifestations of violence to which they can lead, are often linked to socio-economic or other inequalities. The strengthening of democracy in many countries and the introduction of appropriate adjustments to the legal and constitutional framework will contribute decisively to the creation of a genuine climate of religious tolerance.

111. The Special Rapporteur wishes to reiterate the recommendations already formulated in his previous reports regarding the urgent need for those States which have not already done so to ratify the relevant international human rights instruments and to avail themselves of the existing machinery for monitoring the implementation of those instruments. States should also examine the possibility of preparing a binding international instrument on the elimination of intolerance and discrimination based on religion or belief, pursuant to the recommendations made by Mr. Theo van Boven, expert of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, in his 1989 study (E/CN.4/Sub.2/1989/32). Such an instrument should not, however, be hastily drafted. Time is still needed to achieve significant progress in respect of religious freedom and to combat intolerance and discrimination based on religion or belief.

112. The Special Rapporteur hopes that States will remain alert to situations that could lead to violations of any of the rights embodied in the Declaration and take the necessary measures to detect any gaps in their own legislation and make the necessary amendments, and at the same time establish the constitutional and legal safeguards that will ensure the protection of these

rights. In the event of incompatibility with the provisions of the Declaration, States should adopt the necessary constitutional and legislative amendments.

113. States should also make available to persons who are victims of acts of religious intolerance or discrimination, the relevant administrative and judicial remedies in order to punish such incidents. States should also give thought to the conciliation mechanisms that should be established in order to settle disputes resulting from acts of religious intolerance. Since impunity encourages the persistence of human rights violations, States should also create national institutions to promote tolerance in matters of religion and belief. For example, the Government of India issued an ordinance, on 28 September 1993, for the establishment of a national human rights commission, similar commissions in several States of India as well as the relevant human rights courts.

114. The Special Rapporteur would like, finally, to highlight the crucial importance of disseminating the principles contained in the Declaration among lawmakers, judges, lawyers and civil servants in order to encourage them to work actively for the elimination of some of the root causes of religious intolerance. He would like to emphasize again the need to promote the ideals of tolerance and understanding in matters of religion and belief through education, the introduction of national and international human rights standards in school and university curricula and the proper training of teaching staff. Furthermore, he wishes to emphasize the important role of press conferences and information seminars in achieving the broadest possible dissemination of the principles set forth in the 1981 Declaration and encouraging understanding and tolerance in matters of religion and belief.
